



CHESTER J. CULVER, GOVERNOR  
PATTY JUDGE, LT. GOVERNOR

# STATE OF IOWA

DEPARTMENT OF NATURAL RESOURCES  
RICHARD A. LEOPOLD, DIRECTOR

**MINUTES**  
**OF THE**  
**NATURAL RESOURCE COMMISSION**  
**MEETING**  
**NOVEMBER 13, 2008**  
  
**Grimes Conservation Farm Center**  
**2349 233rd Street**  
**Marshalltown, Iowa**

### **Call to Order**

The meeting of the Natural Resource Commission was called to order by the Chair, Commissioner Bill Bird, at 8:30 a.m. on Thursday, November 13, 2008.

Commissioner Bird welcomed the public to the meeting and reviewed the public speaking forum guidelines.

### **Members Present**

William Bird  
Gregory Drees  
Richard (Kim) Francisco  
Elizabeth Garst  
Tammi Kircher  
Carol Kramer  
Janelle Rettig

### **Members Absent**

None

### **1. Approve Agenda**

Moved – Commissioner Francisco  
Seconded – Commissioner Drees  
Motion – Carried with unanimous vote

### **2. Approve Minutes of 08/14/08**

Moved – Commissioner Kircher  
Seconded – Commissioner Rettig  
Motion – Carried with unanimous vote

#### Corrections:

- Commissioner Kircher requested name correction of attorney from Mark Swan to Steve Swan.
- Commissioner Rettig requested it to be noted that she had expressed interest not concern about doing a new 28E Agreement.
- Commissioner Garst would like the comments about the display buffalo stricken from the discussion comments as they are not relevant to the item.
- Commissioner Garst pointed out that the website she recommended did not have information on watchable wildlife in Iowa.

### **3. Director's Remarks**

- Director Leopold addressed DNR staffing changes. Deputy Director Christiansen has resigned and a replacement is currently being sought after. This is a key position within the Bureau and it is urgent that it be filled as quickly as possible. He is working with the District Administrators and senior staff on candidates both internal and external. It is hoped that there will an announcement within the next week on a new Deputy Director. Director Leopold commended Deputy Director Christiansen for all of her work over the years.
- Sally Jagnandan continues to serve as the Interim Management Services Division Administrator.

- Lyle Asell will be retiring in early December. This is another key position being one of the main contacts with Agriculture and the Federal Government. He has a lot of Washington contacts that have benefited the DNR. This position will replace. There are some candidates in mind.
  - Commissioner Garst inquired about opportunity to review structure at the DNR.
  - Director Leopold replied that he is currently looking at alternatives to better streamline the organization structure of the DNR. He is working with the District Administrators to look at possible reorganization of some areas. He welcomed input from the NRC Commission on this matter.
  - Commissioner Garst would like to see conservation easements be a prominent part of the organization structure.
- November 16-18, 2008 Iowa will be hosting the National Symposium on Climate Control at Honey Creek State Park Resort. At this point leaders from 11 states and American Samoa will be attending the meeting. This is not as many states as hoped would attend and not enough to go national but the topic is gaining momentum. There are a lot of states that are in a spending restriction and will be unable to attend. This is the second event of this nature this year. The first was held in Philadelphia, Pennsylvania in June. The combination of states now involved totals 17 states and 2 territories. Director Leopold is looking forward to hosting this event.
  - Commissioner Bird inquired about what role the NRC Commission will play at this event.
  - Director Leopold suggested that Sunday evening at the welcoming reception dinner to be the most appropriate time for any commissioners that would like to attend. Monday and Tuesday's agenda items will be very technical in nature, though if any commissioner has a burning interest in attending they may.
- There is a lot happening with energy. The Iowa Climate Change Advisory Committee and The Office of Energy Independence have both had their final meetings and will be submitting final reports to the Governor's office and Legislature within the next month.
- The Director attended a Deer Study Advisory Committee and was very impressed by the stakeholder involvement. He noted that the DNR biologists do a great job and this advisory committee will only add to the plans already being used.
- Bernie Hoyer has been asked to lead Iowa's interests on the Missouri river by heading the MORAST (Missouri River Association of States and Tribes) team. MORAST includes all of the upper basin states and tribes. The state of Missouri opted not to participate. The Mississippi is ahead of the Missouri in planning and organization. Currently Martin Conrad is leading Iowa's interests on the Mississippi river but Bernie may take over in this role as well.
  - Commissioner inquired as to why Missouri had opted out in participating in MORAST.
  - Director Leopold said the main reason was barge traffic issues on the Missouri river.
- Director Leopold participated in filming for an upcoming television show about Iowa on PBS. When air times are known the information will be passed along to the commission.
- A lot of work still continues on the water basin approach. Meetings with effected entities are still on going. A lot of excitement is building about this topic. The Governor supports this approach to the Lake Restoration Program.
  - Commissioner Garst asked if Lt. Governor Patty Judge is also in support of this.
  - Director Leopold responded that she had not been involved but did not know of any objections she might have.

- Work continues on a package for the Federal Stimulus Bill. A Stimulus Package may come yet this year. Which would assist with waste/storm/drinking water issues, flood plain mapping, mitigation for wetlands, and the Honey Creek Resort Bridge to Honey Creek State Park. The Department of Economic Development is in support of additional state park cabins (possibly 200) and the Director's response to that is "Let's Go!" There is also talk of 2 more destination parks, and the Director's response to that is "Whoa!" Things in a whole look bright for these opportunities to arise from any stimulus package that comes out of Washington.
- Director Leopold spent some time on the Cedar River with Chad Pregracke from Living Lands & Waters and toured the area near Cedar Rapids to see some of the debris that still remain today from aftermath of Floods of '08. Chad Pregracke brought his boats up to the area and has already removed 170+ boat loads of junk from the river. Members of the DNR staff are currently working with Living Lands & Waters to help secure FEMA funding to complete clean up efforts.
- Hunting/Fishing License fee increases will be filed for this year. Preliminary discussions with the Governor's office and the Department of Management have been completed. Schedules are being drawn up and discussions are starting with user groups. The hunting/angling communities have always been supportive of fee increases as long as they have been justified and accountable. Work is ongoing with key Senators and Representatives to try and tie the fee increase to a federal index so that any future subsequent fee increases may be approved by the NRC.
  - Commissioner Rettig asked how Iowa's license fees are comparable to surrounding states.
  - Director Leopold deferred the answer to the question to District Administrator Ken Herring. Ken responded that the fees are comparable to surrounding states except Missouri which has their own dedicated funding source and as such have significantly lower fees. Fee comparisons are included in the increase bill that will be submitted.
- Commissioner Garst inquired about oversight of the Honey Creek Resort financials report.
  - Director Leopold suggested to morph into the next agenda item which happens to be the update on the Honey Creek Resort. Commissioner Garst concurred.

#### **4. Honey Creek Resort State Park Monthly Update**

Director Leopold handed out Internal Honey Creek DNR staff flow chart that reflects some staffing changes beginning with the team leader position due to Deputy Director Christiansen's departure from the DNR. Michelle Wilson has been asked to step in and head the Honey Creek efforts to complete the project.

Director Leopold then read the following statement written by Deputy Director Christiansen:

“For the next several years, the Honey Creek project will require the majority of an FTE to oversee the final phase of construction, manage the contract for the management of the resort, and plan for experience programming which will make Honey Creek the destination that is envisioned.

The FTE should report to the Director's office, specifically the Deputy, in order to ensure the authority, visibility and leadership necessary to complete the project.

The FTE should lead the current Honey Creek team to ensure continuity and transparency of the project and decision-making.

Proposal; Michelle Wilson will be re-assigned through a revision of her PDQ to serve as the Honey Creek coordinator and report directly to the Deputy Director, effective within one month. Michelle's current duties as coordinator of the Honey Creek interpretation program will remain. She will be responsible for managing the completion of the Honey Creek project, reporting to the NRC on project progress, coordinating reporting to the Honey Creek Bond Authority, seeking additional funding opportunities for Honey Creek projects, leading the DNR Honey Creek team, coordinating marketing and promotion efforts in conjunction with DNR communications staff, serving as DNR liaison to Central Group, managing the Central Group contract, and serving as liaison to RLR.

The cost of her position will remain as currently assigned.

Michelle has the skills and experience to make an immediate impact as the Honey Creek coordinator. She currently manages the capitals budget for the Conservation and Recreation Division and has an excellent working relationship with Engineering and Budget and Finance. She understands the funding mechanisms of the Department and has excellent people skills to build consensus and get the job done. Additionally, Michelle's background and true love is with experience planning and outdoor recreation, so she will bring a wide array of knowledge and ideas about what will be needed at Honey Creek now and in the future.”

Commissioner Bird commented on his knowledge of Michelle Wilson's work and his concerns for the void that will be left in the statewide interpretation program as well as budget planning. Director Leopold assured the commission that this void is already being reviewed. He does not want all of the hard work Michelle has made in the statewide interpretation program to be sacrificed.

Commissioner Rettig asked for clarification to who Michelle Wilson would be reporting to. It will be the new Deputy Director. Commissioner Rettig expressed concern about the transition of the Honey Creek project to Michelle Wilson and her abilities to work with the contractors to get the cabins open and to be on site a couple times per week. Director Leopold responded that this is

almost a complete reassignment of Michelle's duties and as such 'This is her job' to make sure the Honey Creek Resort project stays on target. Commissioner Bird stated that he knew Michelle had experience with contractors previous to the DNR as the Lucas County Conservation Director.

Commissioner Rettig reported on the future financial reporting meeting that she participated in. She explained some of the example reports used by Central Group for other clients. She was not sure how the sample reports would be utilized for Honey Creek. She thought that only monthly reports to the Bond Authority and NRC would be sufficient, not daily. Commissioner Garst inquired if there was any indication at this point how Honey Creek is doing financially. Commissioner Rettig responded that she did not have any numbers but did know that for the 2009 wedding season (April-October) all but two dates were already booked. Kelley Myers and Jennifer Nelson will be working together on how the reporting information will be used and how often it will be distributed to ensure all compliance issues are covered. Kelley Myers, Michelle Wilson and Commissioner Rettig are going to meet to discuss how information is disseminated.

Don Labate gave a construction update for Honey Creek. He reported that the cabins are ahead of schedule, all 28 cabins are now framed. The activities center and shelter house designs are being reviewed. The playground equipment has been purchased. Commissioner Garst asked about the light pollution issue. Don responded that options are being reviewed. This may mean changing out the lens of the lighting structures or possibly adding something to the inside of the lens to block the light. Commissioner Rettig asked about the construction progress on the Grand Patio. Don Labate reported that they are currently working with the contractor on construction costs. Costs are not going to exceed \$600,000.

### **Public Participation**

- Kevin Kelly – Kelly Tree Farm - State Forest Nursery – does not support
- Chuck Porto – INLA - State Forest Nursery – does not support
- Pat Kearney – IA-Wis-IL Nursery, Inc. - State Forest Nursery – does not support
- Leo Free – IA-Wis-IL Nursery, Inc. - State Forest Nursery – does not support
- Mary Free – IA-Wis-IL Nursery, Inc. - State Forest Nursery – does not support
- Dean Platt – Iowa Nursery – State Forest Nursery – does not support
- Dale Seams – Sherman Nursery Co. - State Forest Nursery – does not support
- Kristi Richardson – Lehigh – Restricted Use Access Easement
- Phil Richardson – Lehigh – Restricted Use Access Easement

## **5. Construction Projects**

Bids were opened October 16, 2008, for the following projects:

### **5.1 - INHF - Basaillon WRP, Dickinson County – Wetland Restoration**

This project consists of the restoration of wetlands including constructing dikes, locating and disabling subsurface drainage and other related work as required by the Plans and the DNR Construction Inspector. The purpose of this project is to convert cropland back to its natural wetland state. Wetlands help to reduce storm water runoff from entering bodies of water, control erosion, recharge aquifers, and create animal habitat. The primary focus of this project is the creation of water fowl habitat, with a secondary focus of creation of habitat for reptiles and amphibians.

Project was designed by Heath Delzell and will be inspected by Jeff Felts. DNR estimate is \$32,000. Funding will be provided by Fish and Wildlife Trust Fund - WRP Reimbursable (Capital Link #59). 12 sets of plans were issued. 7 bids were received.

Carnarvon Sand & Gravel	Wall Lake, IA	\$29,374.80
Christian Brothers Excavating	Sioux Rapids, IA	\$31,751.55
Bluewater Contracting	Spirit Lake, IA	\$37,181.95
Richards Construction Co. Inc.	Sac City, IA	\$37,320.75
Reutzel Excavating Inc.	Burt, IA	\$38,800.25
Valley Contracting Inc.	Estherville, IA	\$48,936.00
Peterson Contractors Inc.	Reinbeck, IA	\$68,301.25

Staff recommends award of contract to Carnarvon Sand & Gravel, low bidder.

Moved – Commissioner Kramer  
Seconded – Commissioner Drees  
Discussion – Commissioner Francisco inquired about the ditching, would it be around the outside so that the districts watershed drainage program may be maintained? Don Labate replied that they are away from the area of concern.  
Motion – Carried with unanimous vote

### **5.2 - Peterson WRP, Dickinson County – Wetland Restoration**

This project consists of the restoration of wetlands including constructing dikes, locating and disabling subsurface drainage and other related work as required by the Plans and the DNR Construction Inspector. The purpose of this project is to convert cropland back to its natural wetland state. Wetlands help to reduce storm water runoff from entering bodies of water, control erosion, recharge aquifers, and create animal habitat. The primary focus of this project is the creation of water fowl habitat, with a secondary focus of creation of habitat for reptiles and amphibians.

Project was designed by Troy Duff and will be inspected by Jeff Felts. DNR estimate is \$47,710. Funding will be provided by Fish and Wildlife Trust Fund - WRP Reimbursable (Capital Link #59). 15 sets of plans were issued. 6 bids were received.

Carnarvon Sand & Gravel	Wall Lake, IA	\$47,369.14
Bluewater Contracting	Spirit Lake, IA	\$52,737.60

Reutzel Excavating Inc.	Burt, IA	\$57,058.20
Christian Brothers Excavating	Sioux Rapids, IA	\$63,407.90
Valley Contracting Inc.	Estherville, IA	\$96,061.00
Peterson Contracting Inc.	Reinbeck, IA	\$110,536.00

Staff recommends award of contract to Carnarvon Sand & Gravel, low bidder.

Moved – Commissioner Drees  
 Seconded – Commissioner Kramer  
 Discussion – none  
 Motion – Carried with unanimous vote

### **5.3 - Hendrickson Marsh, Story County – Boat Ramp and Parking Lot**

This project consists of the construction of a boat ramp, parking lot, and other related work as required by the Plans and the DNR Construction Inspector. Construction of this project will provide a boat ramp and parking area for boaters and hunters in a popular waterfowl hunting area in Central Iowa.

Project was designed by Jason Kruse and will be inspected by Jason Kruse. DNR estimate is \$30,000. Funding will be provided by U.S. Coast Guard (\$14,879.55) and Marine Fuel Tax (\$14,879.55) (Capital Link #119) funds. 11 sets of plans were issued. 7 bids were received.

Sterk Excavating Inc.	Otley, IA	\$29,759.10
S.L Baumeier	Gladbrook, IA	\$35,124.00
Walleser Excavating	Lansing, IA	\$41,818.00
TK Concrete Inc.	Pella, IA	\$50,312.00
C.L. Carroll Co. Inc.	Des Moines, IA	\$51,370.00
J & K Contracting	Ames, IA	\$61,113.69
Tschigffrie Excavating Co.	Dubuque, IA	\$67,465.15

Staff recommends award of contract to Sterk Excavating Inc., low bidder.

Moved – Commissioner Rettig  
 Seconded – Commissioner Garst  
 Discussion – Commissioner Kramer asked why did staff recommend S.L Baumeier? Was it suppose to be Sterk Excavating Inc. as the lowest bid? Don Labate agreed that this was an oversight on the agenda because staff did recommend the lowest bidder and that is Sterk Excavating Inc.  
 Motion – Carried with unanimous vote

### **5.4 - Green Valley Lake, Union County - Shoreline Protection and Fish Habitat Construction**

This project consists of the construction of fish habitats, protecting the existing shoreline and the extension of the existing boat ramp following the existing grade of the ramp and other related work to be constructed as required by the Plans and the DNR Construction Inspector. The purpose of this project is to revitalize Green Valley Lake. Due to erosion over time the existing shoreline is in need of protection by means of riprap. This will hinder the effects of erosion. In addition to the shoreline concerns Green Valley Lake is in need of a fish habitat upgrade. Like the shoreline, wave action and occurrences of erosion have allowed much of the existing habitats to sink into the spoil at



the bottom of the lake. This project consists of the construction of fish habitats including: rock fields, spawning beds and fish mounds, and are designed to attract specific fish species that are known to be in the area. These species include: bluegill, bullhead, channel catfish, crappie and large mouth bass.

Project was designed by Ken Jackson and will be inspected by Mark Johnson. DNR estimate is \$392,319.30. Funding will be provided by Shoreline Protection - Lake Water Quality Improvement (\$269,316) (Capital Link #97); Federal Dingle Johnson (\$90,173.25) and Fish and Wildlife Trust Fund (\$30,057.75) (Capital Link #27). 25 sets of plans were issued. 5 bids were received.

C.L. Carroll Co. Inc.	Des Moines, IA	\$389,547.00
Lamb Tiling	Greenfield, IA	\$414,333.25
Murphy Heavy Contracting Inc.	Anita, IA	\$418,832.50
Cole Construction Co. Inc.	Keosauqua, IA	\$504,677.20
Peterson Contracting Inc.	Reinbeck, IA	\$505,696.00

Staff recommends award of contract to C.L. Carroll Co. Inc., low bidder

Moved – Commissioner Kircher  
 Seconded – Commissioner Francisco  
 Discussion – Commissioner Garst asked how deep? Marion Conover – Maximum depth of 25 and 35 feet. Commissioner Drees commented about the use and effectiveness of native plantings and encouraged DNR to use.  
 Motion – Carried with unanimous vote

### **5.5 - Meadow Lake, Adair County – Fish Habitat Development and Outlet Structure Repair**

This project consists of the construction of fish habitats, protecting the existing shoreline, the repair of an existing outlet structure, and other related work to be constructed as required by the Plans and the DNR Construction Inspector.

Project was designed by Ken Jackson and will be inspected by Mark Johnson. DNR estimate is \$54,500. Funding will be provided by Federal Dingle Johnson fund (\$45,755.96) and REAP Land Management (\$15,251.99) (Capital Link #156). 17 sets of plans were issued. 6 bids were received.

Richards Construction Co. Inc.	Sac City, IA	\$61,007.95
C.L. Carroll Co. Inc.	Des Moines, IA	\$61,400.00
Lamb Tiling	Greenfield, IA	\$61,641.95
Carnarvon Sand & Gravel	Wall Lake, IA	\$68,257.43
Murphy Heavy Contracting Inc.	Anita, IA	\$87,141.00
Peterson Contractors Inc.	Reinbeck, IA	\$101,200.00

Staff recommends award of contract to Richards Construction Co. Inc., low bidder.

Moved – Commissioner Drees  
 Seconded – Commissioner Francisco  
 Discussion – Commissioner Francisco asked about seeding. Don Labate was unsure but would refer this question back to staff.  
 Motion – Carried with unanimous vote

Commissioner Francisco asked why Lake Wapello going into 2<sup>nd</sup> year of draw down?

Don Labate responded that the project to be presented next month for repairs. Due to the lake levels this season going up and down it has been hard to keep up with water level & draining of lake. Ken Herring reminded the Commission that this year resources have really been stretched due to the repairs needed by weather related damage.

## **6. Backbone State Park, Fayette County - 2008 Flood Repair**

This item is to inform the commission of the status of the project that was approved on August 14, 2008 for the repairs to the roadways and spillway area at Backbone State Park. An award was made to Tschigffrie Excavating Co. of Dubuque, IA, for an amount of \$404,116.95. This has been a dynamic project in the sense that the scope of work changed weekly due to actual conditions uncovered at the site and the addition of work authorized and directed by the DOT and FEMA. This work was initiated as an emergency procedure to remedy potentially hazardous situations caused by further rain damage and or erosion of soils and the river bottom. The DOT requested that we add rock stabilization to the bridge abutments at the river. FEMA approved additional work to open up a stream channel blockage that was causing turbulence, and therefore erosion of the stream bed. The safety railing/fence adjacent to the two spillways was found to be damaged and unsafe. Other bid items were modified as a result of new information and/or unforeseen conditions. The project is being closed out and should be completed by the time of the NRC meeting. Change orders to date total \$39,686.52, or 9.82 % of the contracted amount. The bulk of these changes are funded by the DOT, FEMA or the Federal IR contract.

The project has been completed on time and before bad weather approaches and has been a successful coalition between State and Federal agencies.

Moved – Informational Item Only

Seconded –

Discussion – Commissioners went on to discuss repeated approvals for construction projects and additional funding for Backbone.

Motion – None required, Informational Item Only

## **7. DNR Land Acquisition Project Approval**

### **7.1 - Elinor Bedell State Park, Dickinson County -- Eric and Kelly Hoiem, Michael and Susan Hoiem, Rebecca Hoiem Fortis and Bill Fortis**

The Natural Resource Commission's approval is requested accept the donation of a parcel of land, located in Dickinson County, adjacent to Elinor Bedell State Park. Eric and Kelly Hoiem, Michael and Susan Hoiem, Rebecca Hoiem Fortis and Bill Fortis offer to donate the 42.74 foot x 33 foot parcel the DNR.

This property is adjacent to the west side of Elinor Bedell State Park where the DNR maintains a bike trail. After recent property transactions in the vicinity, it was determined that part of the park trail lays on this property. The Hoiem family held back this parcel from a larger conveyance knowing that the issue of the trail location and the problems that could potentially arise. The have very generously agreed to donate the property to the DNR thereby alleviating the risk future property boundary issues.

This acquisition will become part of the 91-acre Elinor Bedell State Park and will be managed by the Conservation and Recreation Division in accord with the area management plan.

Staff recommends approval of the land acquisition.

Moved – Commissioner Rettig  
Seconded – Commissioner Drees  
Discussion – Commissioner Garst inquired why land was it kept out of original sale? They were looking out for the best interest of the DNR. Commissioner Bird commented that this was very generous of them. All agreed.  
Motion – Carried with unanimous vote

## **7.2 - Conservation Easement, Hamilton County -- David and Annette Volkers**

The Natural Resource Commission's approval is requested to accept a conservation easement on 93 acres (more or less) in Hamilton County. This easement shall serve to protect primarily wooded land that is adjacent to DNR land that is part of the Boone Forks WMA. David and Annette Volkers of rural Stratford, IA offer the donation of this easement.

Dan Kinsinger negotiated this easement.

The property is located approximately 6-miles northwest of Stanhope, IA and adjoins the south edge of the Boone Forks WMA. The land is a mix of steep rolling timber, Boone River bluffs, a building site and 14 acres of tillable land that is currently enrolled in WRP for 15-years. The WRP has been seeded to native prairie species. The Boone River runs through the north portion of the property.

The Volkers are conservation minded and want to protect their land for future generations. The easement will allow for at least one building envelope that will include the current dwelling and building site.

The conservation easement will be monitored through a joint effort of River Programs and Wildlife personnel.

No survey costs are anticipated. In the event that there is a future need for surveying it would be at the expense of the Department. The cost of a certified real estate appraisal to serve as a basis for the value of the development rights given up by the encumbrance of the conservation easement along with incidental closing costs will also be the responsibility of the Department.

Staff recommends approval of the conservation easement acquisition.

Moved – Commissioner Kramer  
Seconded – Commissioner Kircher  
Discussion – Commissioner Garst asked if the conservation easement would prevent future cropping of the 14 acres in the 15 year wetland area. Travis Baker responded that it would. A conservation easement would take away future development rights as well as subdivision rights. Some land owner rights have not been agreed upon. Discussion was held in reference to the commission's expectations on land easement agenda items. The commission directed staff that they would like to see all details of land easements agreed upon prior to bringing to the commission for approval.  
Motion – Carried with unanimous vote

### **7.3 - Upper Iowa River Wildlife Management Area, Winneshiek County – Mark and Lynn Krivachek**

The Natural Resource Commission's approval is requested for a land exchange involving the Nature Conservancy (TNC), private landowners Mark and Lynn Krivachek and the DNR.

Dan Kinsinger negotiated the exchange. Terry Haindfield, Wildlife Biologist, was instrumental in developing positive relationships with all of the landowners involved.

The exchange property is located about 3-miles southeast of Bluffton in Winneshiek County, Iowa. The first request is for the NRC to accept the donation from TNC of a 16' wide strip of land totaling .78 acres that is the TNC access to the east portion of their land.

The second request is for approval of the transfer of the .78 acre TNC donation to Mark and Lynn Krivachek. The Krivacheks will in exchange provide the DNR a 16' wide permanent easement for access across a different portion of their land. TNC will also have the right to use the DNR access easement. This access will be for DNR personnel and land tenant use only and not for use by the public.

This exchange benefits the DNR in several ways. First, it will formalize a mutual verbal arrangement that has the DNR crossing Krivachek land that is not under recorded easement. Second, it will enhance the potential for the DNR to acquire a landlocked 2.19 acre in holding with Upper Iowa River frontage that is owned by the Krivacheks. All parties are in agreement that this exchange is mutually beneficial.

There are no anticipated survey costs. Incidental closing costs will be the responsibility of the Department.

Staff recommends approval of the land acquisition, land transfer and easement acquisition.

Moved – Commissioner Drees Seconded – Commissioner Kircher Discussion – Clarification discussion on what area would be exchanged as well as the cost to develop new access road. Previous owner Mark Henry agreed to this prior to his death. Motion – Carried with unanimous vote
---

### **7.4 - Upper Iowa River Wildlife Management Area, Winneshiek County --Iowa Natural Heritage Foundation (INHF)**

The Natural Resource Commission's approval is requested for the acquisition of a parcel of land located in Winneshiek County. The INHF offer the 26.69-acre parcel for \$95,500. The appraised value of the property is \$128,000.

Mark Tressel, Licensed Appraiser of Dubuque, Iowa, submitted the appraisal. Travis Baker negotiated the purchase agreement.

DNR-owned land, known as the Upper Iowa Wildlife Management Area, surrounds on three sides. The Upper Iowa River meanders through and around the land. This property is located in northwestern Winneshiek County, Iowa. The town of Decorah is located ten miles southeast of the property.

The property consists of restored prairie and timber that has building site potential as well as some potential for subdivision. Access to the land is from a gravel-based county road that runs through the south portion of the property.

This acquisition will be managed by the Conservation and Recreation Division in accord with the area management plan.

Funding used for this acquisition will be provided by REAP Public/Private Grants Program (Capital Link #152). The property will remain eligible for continued payment of property taxes assessed by Winneshiek County. Incidental closing costs will be the responsibility of the Department.

Staff recommends approval of the land acquisition.

Moved – Commissioner Rettig Seconded – Commissioner Francisco Discussion – Commissioner Drees asked about potential of subdivision development. Motion – Carried with unanimous vote
---

#### **7.5 - Waterloo Creek WMA, Allamakee County -- Haugen Living Trust**

The Natural Resource Commission's approval is requested to purchase a parcel of land located in northwestern Allamakee County. The Haugen Living Trust (Sallie Haugen DeReus, Trustee) offers this 80-acre tract for the appraised price of \$457,000.

Brian Linnemeyer, Licensed Appraiser of Indianola, Iowa, submitted the appraisal. Rick Hansen negotiated the purchase agreement.

This property is located just south of Dorchester. The tract is adjacent north and east of Waterloo Creek Wildlife Management Area. The nearly level to steep tract is comprised of 64 acres of forested land, 10.8 acres of cropland, 3 acres of building site, and 2.2 acres of roads. Waterloo Creek, a popular trout fishery that supports naturally reproducing populations of Brown Trout, bisects the central region of the property a distance of approximately 1,930 feet. In addition, an unnamed spring run originates near the building site and runs south approximately 1,000 feet into Waterloo Creek. Building improvements include an old 2-story house (currently vacant) and 3 small service buildings in poor condition. A paved, county road (A16) bisects the east quarter of the property and provides good access.

This aesthetic parcel will increase the Waterloo Creek WMA to 1,970 acres, and will provide for excellent public fishing, wildlife habitat, and improve water quality to this area. The Wildlife Bureau will manage the property in accord with the area management plan.

Acquisition funding will be provided by Dingell-Johnson (\$342,750), Fish Habitat Stamp (\$114,250) (Capital Link #24). No survey or fencing costs is anticipated. Incidental closing costs will be the responsibility of the Department.

Staff recommends approval of the land acquisition.

Moved – Commissioner Rettig Seconded – Commissioner Francisco Discussion – General discussion of surrounding land and comparable per acre costs. Motion – Carried with unanimous vote
--

**7.6 - Sweet Marsh Wildlife Management Area, Bremer County – Scott and Beth Schellhorn**

The Natural Resource Commission's approval is requested for the acquisition of a parcel of land located in Bremer County, adjacent to the north side of Sweet Marsh Wildlife Management Area. The 40.7-acre parcel is offered by Scott and Beth Schellhorn for the appraised price of \$41,000.

Sherman McNeal, Licensed Appraiser of Cedar Falls, Iowa, submitted the appraisal. Travis Baker negotiated the purchase agreement.

This property is located in north central Bremer County, Iowa. The small rural community of Frederika is approximately two and a half miles northwest. The topography ranges from nearly level to gently sloping. The entire property is encumbered by a NRCS Wetland Reserve Program conservation easement. The property is currently undergoing the process of wetland restoration. The restoration development is 100% cost-shared by the NRCS.

The property contains a small forested wetland area and the rest of the property will be developed to shallow wetlands and prairie as per NRCS specifications (Massasauga rattlesnake priority area) of the WRP program. The Wapsipinicon River corridor is severely lacking habitat outside of the riparian forest zone and this parcel would add some grassland to the corridor.

This acquisition will become part of the 2,800-acre Sweet Marsh Wildlife Management Area and will be managed by the Conservation and Recreation Division in accord with the area management plan.

Funding for the acquisition will be provided by the Cedar Wapsi NAWCA Fund (Capital Link #14). Survey and incidental closing costs will be the responsibility of the Department.

Staff recommends approval of the land acquisition.

Moved – Commissioner Drees Seconded – Commissioner Francisco Discussion – none Motion – Carried with unanimous vote
--

**7.7 - Kellerton Bird Conservation Area, Ringgold County – Joe and Ann Meyer**

The Natural Resource Commission's approval is requested for the acquisition of a parcel of land located in Ringgold County. This 80-acre tract is offered by Joe and Ann Meyer for the appraised price of \$162,000 with a two-year reservation of agricultural rights including two CRP payments on 4.7 acres.

Gary Thien, Licensed Appraiser, Thien Farm Management, Inc., Council Bluffs, Iowa, submitted the appraisal. Jerry Gibson negotiated the purchase agreement.

The property is located approximately six miles east and two miles south of Mount Ayr. The parcel is accessible from DNR property on the northern boundary, and is 1300 feet north of an existing DNR parcel. The property consists of 56.4 acres of tillable land, of which 4.7 acres are currently enrolled in the CRP (CP-21 buffer) at \$100.30 per acre per year; and 23.6 acres of timber. The average Corn Suitability Rating is 37.

After acquisition the DNR plans to seed 70 acres to native prairie plant species with 10 acres remaining in timber. Acquisition of the tract will enhance utilization by the Greater Prairie Chicken. The property will be managed by the Wildlife Bureau.

Acquisition funding will be provided by Federal State Wildlife Grant (\$81,000) and REAP License Plate (\$81,000) (Capital Link #162). The property will remain on the property tax roll. Survey of the southern boundary and incidental closing costs are the responsibility of the Department.

Staff recommends approval of the land acquisition.

Moved – Commissioner Kircher  
Seconded – Commissioner Drees  
Discussion – General discussion on the 10 acres not being seeded. How does it fit into the wildlife management plan? It is thought that eventually the trees would be removed.  
Motion – Carried with unanimous vote

## **8. DNR Land Management Project Approval**

### **8.1 - Management Agreement – Robert “Chic” McLaughlin Conservation Easement Area, Buchanan County**

The Natural Resource Commission is requested to approve entering into a new management agreement with the Buchanan County Conservation Board to manage the Robert “Chic” McLaughlin Conservation Easement Area through December 31, 2028.

The agreement covers 4.7 acres of permanent conservation easement acquired by the DNR in July, 2008. The property is located on the Wapsipinicon River adjacent to the unincorporated town of Littleton, approximately nine miles upstream of the City of Independence. A dam exists adjacent to the area.

It will be managed to provide public access to the river and a portage for use as a water trail. Buchanan County will provide periodic patrol of the area; response to emergencies; maintenance of the parking area, landings and launches; and signage related to the portage trail, identifying the area, and warnings of the dam.

The agreement will be according to the terms and conditions of the standard DNR management agreement.

Staff recommends approval of the management agreement.

Moved – Commissioner Drees  
Seconded – Commissioner Francisco  
Discussion – Buchanan County Conservation annual monitoring requirements/obligation clarification. This was agreed upon because the DNR has public access to this land.  
Motion – Carried with unanimous vote

## **8.2 - Management Agreement – Pine Ridge Recreation Area, Hardin County**

The Natural Resource Commission's approval is requested for the renewal of a management agreement with the Hardin County Conservation Board to manage the Pine Ridge Recreation Area through November 30, 2033.

Hardin County has managed the area since 1980. This renewed management agreement covers approximately 131 acres acquired by the state in 1977.

The property is located along the west side of the Iowa River, immediately northwest of the City of Steamboat Rock. The area provides approximately three-fourths of a mile of river access. It will be managed as a recreation area with primary emphasis as a wildlife area. A small lake, a camping area and a small picnic area are maintained on the area.

The agreement will be according to the terms and conditions of the standard DNR management agreement.

Staff recommends approval of the management agreement.

Moved – Commissioner Drees Seconded – Commissioner Rettig Discussion – none Motion – Carried with unanimous vote
---

## **9. Final Rule - Chapter 88, Fishing Tournaments**

The Department requests Commission approval to amend Chapter 88, Fishing Tournaments. The proposed amendment establishes a \$25.00 administrative fee for fishing tournament permits.

Each year the Department issues approximately 700 permits for fishing tournaments conducted on public waters in the state. The permits are administered by each of the 14 fisheries management teams. Approximately 45 minutes is required to process each permit application. The fee will offset costs incurred to administer the permit program.

No public comments were received.

Attachment: Final Rule - Chapter 88, Fishing Tournaments

### **NATURAL RESOURCE COMMISSION [571]**

#### **Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 88, "Fishing Tournament," Iowa Administrative Code.

The adopted amendment establishes a \$25 administrative fee for fishing tournament permits.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 30, 2008, as ARC 7035B. A public hearing was held August 22, 2008. There are no changes from the Notice of Intended Action.

This amendment is intended to implement Iowa Code sections 462A.16, 481A.38, and 455A.5(6)"e."

The following amendment is adopted.

---



Amend rule 571--88.2(462A,481A) as follows:

**571—88.2(462A,481A) Permit required.** A permit issued by the department of natural resources is required to conduct a fishing tournament on public waters under the jurisdiction of the state. The administrative fee for each fishing tournament permit is \$25. Free fishing clinics and youth fishing days are excluded.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Richard A. Leopold, Director

Moved – Commissioner Francisco Seconded – Commissioner Drees Discussion – none Motion – Carried with unanimous vote
--

#### **10. Final Rule – Chapter 85, Trotlines**

The Department requests Commission approval to amend Chapter 85, Trotlines. The proposed rule amendment requires all trotlines to be removed from shore when not actively fished.

The practice of leaving unattended trotline equipment is a growing problem. This practice not only creates an eyesore along Iowa's rivers, but also creates problems when this equipment inadvertently catches birds, mammals, and fish. This equipment also poses a considerable risk to boaters and other users of the river systems. Requiring the removal of unused lines is in the best interest of the vast majority of river users, as well as the wildlife that inhabit our rivers.

No public comments were received

Attachment: Final Rule - Chapter 85, Trotlines

#### NATURAL RESOURCE COMMISSION [571]

##### Adopted and Filed

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 85, "Trotlines," Iowa Administrative Code.

The adopted amendment requires all trotlines to be removed from shore when they are not being actively fished.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 30, 2008, as ARC 7036B. A public hearing was held August 22, 2008. There are no changes from the Notice of Intended Action.

This amendment is intended to implement Iowa Code sections 481A.38, 481A.39, and 481A.74.

The following amendment is adopted.

\_\_\_\_\_  
Amend rule 571--85.1(481A) as follows:

**571—85.1(481A) Trotlines ~~where permitted~~.**

**85.1(1) Where permitted.** It shall be lawful to use trotlines or throw lines in all rivers and streams of the state, except in Mitchell, Howard, Winneshiek, Allamakee, Fayette, Clayton, Delaware, Dubuque, and Jackson Counties. Trotlines or throw lines may be used in the above nine counties in the following stream segments: Maquoketa River, mouth to Backbone State Park dam;

North Fork Maquoketa River, mouth to Jones-Dubuque County line; Turkey River, mouth to the Elkader dam; and Upper Iowa River, mouth to the first dam upstream in Winneshiek County.

**85.1(2) Removal of lines.** All trotlines and parts thereof shall be removed from the shore when they are not being actively fished. A trotline shall be considered actively fished if at least once daily the trotline is left with at least one baited hook in the water.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Richard A. Leopold, Director

Moved – Commissioner Kircher

Seconded – Commissioner Kramer

Discussion – Commissioner Garst asked how would they know who is the guilty party? Marion Conover responded that name and address had to be attached to the lines.

Motion – Carried with unanimous vote

### **11. Final Action - Chapter 81, Fishing Regulations**

NRC approval is requested to amend Chapter 81, Sport Fishing Rule. The proposed amendments establish a 25 daily bag limit on crappie and a 25 daily bag limit on bluegill in public waters of the state.

A total of 172 comments were received from 169 people during the 56 day comment period. One hundred forty one people supported the proposed daily bag limit and 28 people opposed the action.

Marion Conover, Fisheries Bureau Chief  
Conservation and Recreation Division  
November 13, 2008

Attachments: Final Rule - Chapter 81 Fishing Regulations  
Summary of Public Comments

### **NATURAL RESOURCE COMMISSION [571] Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 81 “Fishing Regulations,” Iowa Administrative Code. The proposed amendments establish a statewide daily bag limit for bluegill and crappie in public waters.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 10, 2008, as ARC 7146B. Public hearings were held September 30, 2008, and October 1, 2, 3 and 9, 2008. There are no changes from the Notice of Intended Action. These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, and 481A.67.

These amendments shall be come effective January 21, 2009.  
The following amendments are adopted.

**ITEM 1.** Amend rule 571--81.1(481A) as follows:

**571—81.1(481A) Seasons, territories, daily bag limits, possession limits, and length limits.**

INLAND WATERS OF THE STATE					BOUNDARY RIVERS
KIND OF FISH	OPEN SEASON	DAILY BAG LIMIT	POSSESSION LIMIT	MINIMUM LENGTH LIMITS	MISSISSIPPI RIVER MISSOURI RIVER BIG SIOUX RIVER
Rock Sturgeon	Closed	0	0		Same as inland waters
Shovelnose Sturgeon	Continuous	None	None	None	Same as inland waters except no harvest allowed in the Big Sioux River and aggregate daily bag limit 10, aggregate possession limit 20, in the Missouri River
Paddlefish*	Continuous	2	4	None	Same as inland waters
Yellow Perch	Continuous	25	50	None	Same as inland waters except no bag or possession limit in the Missouri River
Trout	Continuous	5	10	None*	Same as inland waters
Catfish*	Continuous	8 Lakes 15 Streams	30	None	Same as inland waters except no bag or possession limit in the Mississippi River
Black Bass (Largemouth Bass) (Smallmouth Bass) (Spotted Bass)	Continuous	3 In Aggregate	6	See below*	Continuous open season; aggregate daily bag limit 5, aggregate possession limit 10 See below*
Combined Walleye, Sauger and Saugeye	Continuous*	5*	10*	None*	Continuous open season; aggregate daily bag limit 6, aggregate possession limit 12; except aggregate daily bag limit 4, aggregate possession limit 8, in the Big Sioux and Missouri Rivers See below*
Northern Pike	Continuous*	3	6	None	Continuous open season; daily bag limit 5, possession limit 10; except daily bag limit 6, possession limit 12, in the Big Sioux River
INLAND WATERS OF THE STATE					BOUNDARY RIVERS
Muskellunge or Hybrid Muskellunge	Continuous*	1	1	40"	Same as inland waters

<u>Crappie</u>	<u>Continuous</u>	<u>25*</u>	None	<u>None</u>	<u>Same as inland waters except 50 in possession</u>
<u>Bluegill</u>	<u>Continuous</u>	<u>25*</u>	None	<u>None</u>	<u>Same as inland waters except in aggregate with pumpkinseed on the Mississippi River</u>
All other fish species*	Continuous	None	None	None	See below*
Frogs (except bullfrogs)	Continuous	48	96	None	Same as inland waters
Bullfrogs (Rana Catesbeiana)	Continuous	12	12	None	Same as inland waters

\*Also see 81.2(481A), Exceptions.

**ITEM 2.** Amend subrule 81.2(12) as follows:

**81.2(12) Panfish.** The daily bag limit for crappie and bluegill applies only to public waters of the state. In all waters of the Mississippi River, the daily bag and possession limit applied individually to crappie, yellow perch and rock bass shall be 25 and 50, respectively. In all waters of the Mississippi River, the daily bag and possession limit applied in the aggregate for bluegill and pumpkinseed and for white bass and yellow bass shall be 25 and 50, respectively.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Richard A. Leopold, Director

### **Chapter 81 NOIA Public Comments**

8-17-08 (letter) Langley Jensen, Hudson – Supportive. Fishes below the Lake Red Rock Dam and has noticed a large influx of out of state anglers in the spring of the year. He has seen several people keep and take a trash bag full of crappie that were getting ready to spawn. He has seen a noticeable decrease in the size and numbers of crappie in the area.

8-18-08 (phone) Terry Hampshire, Norwalk – Not supportive. Fears panfish will stunt if not enough fish are harvested. Suggests applying the bag limit to the Iowa Great Lakes since they are the ones who want it. Cost of travel to good lakes is expensive and being able to take just 25 crappie is not worth it.

8-23-08 (in person) Terry Jennings, Unionville – Supportive. It is needed to prevent waste of a resource. He objects to people keeping more crappie than they can handle and then discarding the smaller ones at the fish cleaning station because they don't want to clean them all. Has witnessed this more than once at Rathbun. Twenty-five crappie is enough for anyone. He wished a possession limit would have been included in the rule proposal.

8-26-08 (email) Garry Boggs, Albion – Not Supportive. Unless the Iowa biologists have undisputable proof that there is no scientific justification for putting limits on panfish, then I am in favor of trying them. Keep them on waters where they work and remove them on waters where they don't.

9-19-08 (email) John Foster – Supportive. Strongly in favor of limits on panfish. He has seen unlimited buckets of 3 to 5 inch crappie taken from Little Wall Lake and he knows it happens elsewhere. He is sure many of these fish are not consumed and ultimately wasted. There is no reason to waste this resource.

9-24-08 (letters) Elroy Roling, Kingsley; Don Hansen, Hartley; David Christenson, Hartley; John Becker, LeMars – Supportive. They are unable to attend any of the public meetings but support the proposal of a daily limit of 25 crappie and 25 bluegill.

9-25-08 (letters) Chuck Kummerfeld, Sutherland; Steve Langel, LeMars; Orville Tayler, Hartley; Bruce Carlson, Kingsley; Jeffrey Filkins, Hartley; Randall Jelken, LeMars; Clark Schmitz, Brunsville; Joshua Hilfiker, Spencer; Wilbur Petersen, LeMars; Al Wendt, LeMars; Lon Vogt, Hartley; Bruce Nanninga, LeMars; Bill Leonard, Estherville; Wayne Beitelspacher, LeMars; Kelly Cook, Spencer; David Klohs, LeMars; Larry Lindgren, Kingsley; Wayne Snell, LeMars; Rich Schumacher, Hartley; Jeff Langel, LeMars; Barry Lancaster, LeMars; Moris Lonnerman, Hartley; Norb Groff, Hartley; Walter Kummerfeld, Sutherland; Bill Frerk, Primghar; Peder Buck, Hartley; Doug Downing, LeMars; Terry Hilbert, Hartley – Supportive. They are unable to attend any of the public meetings but support the proposal of a daily limit of 25 crappie and 25 bluegill.

9-25-08 (letter) Libby Rodawig, Spirit Lake – Supportive – “I fully support the 25 crappie and bluegill limits being proposed.”

9-26-08 (email) Nick Kertels, North Liberty – Supportive – He fishes a lot and so does his family. “First of all look at all the states that have bag limits and size limits. Second of all I have been on the receiving end of a good day of fishing for bluegills and crappies and when you fillet over 1,000 fish in a weekend and this is a true story that is ridiculous and I will never do that again. No reason for that and you can’t even eat that much fish in a year or give it away fast enough. That was at Three Mile Lake and luckily still is a great fishery. The sad part was everybody that weekend was catching that many and for someone to say that won’t hurt the fish population is nuts. Third and foremost this last winter some guys fishing in Kent Park in Tiffin sat on a school of crappies for like a week straight and the park ranger estimated they took out like 30 – 35 five gallon buckets full of crappies. This is not a very big lake and I heard since this incident only 4 crappies have been caught this summer. For anybody to sit there and say oh this won’t hurt the fishing is wrong and you can fish out a lake and if you do that, what are our kids gonna fish for in the future. We need to practice more catch and release and I do strongly support the bag limit and size limit might be nice too.”

9-26-08 (letter) Brian Joy, Sioux City – Supportive – He has fished many lakes and feels a limit is in order for these fish. “This is a nice amount of fish for anyone and very unwasteful of our natural resources.”

9-26-08 (letters) Donald Harson, Hartley; Bruce Hanno, LeMars; Bill Klohs, LeMars – Supportive – They are unable to attend any of the meetings but support the proposal of a daily limit of 25 crappie and 25 bluegill.

9-26-08 (email) Donald Christy, Cedar Rapids – Supportive – Totally in favor of bag limits for crappie and bluegill but thinks 25 may still be a little too lenient. In the previous three years he has seen groups from Illinois fishing bluegill during the spawn at Lake Wapello and Lake Sugema. At

Lake Wapello they were bringing in about 110 to 130 per 2 men twice a day for close to a week with no size discrimination. They stated they were here to “stock up” since Illinois had a daily limit of 25. Asked about the possibility of a possession limit as well.

9-27-08 (email) David Countryman, Ames – Not Supportive – “Bluegill and crappie are such prolific reproducers in Iowa waters that they soon over populate a pond or lake. When they over populate a body of water they become stunted. Fishermen then quit fishing for those species. To keep a healthy population of bluegill and crappie they need to be fished heavy to keep the numbers down so that the remaining fish can grow bigger. A rule among farm pond owners in the area of southeast Iowa that I grew up in was that no bluegill caught was to be returned to the water. Farm pond owners that had this rule had the best ponds for fishing because the fish were bigger. Other farm ponds managed without this rule became so overpopulated with bluegill that the bluegill were considered only as forage for the bass. Few fisherman fished for the bluegill in those overstocked ponds because the bluegill were so small they were not worth cleaning.” He hopes the department will manage Iowa waters with scientifically based biological criteria to maximize the fishing opportunities of all species and oppose any pressure to impose a bag limit on panfish.

9-28-08 (phone) Robert Crane, Fort Madison – Not Supportive – He travels to Rathbun for two weeks every year and a 25 limit would severely hamper him and his wife. He says there are so many crappie in Rathbun and people take unbelievable numbers and it hasn’t hurt the lake. Making an exception for Rathbun of say 50 fish a day would help. The no possession limit does help. He supports the 25 limit on the smaller lakes but not at Rathbun. Limiting the daily take to 25 fish may drive him away from the lake because of the two hour drive and cost of staying two weeks. He doesn’t fish in Missouri or Illinois anymore because they have bag limits on crappie there.

9-28-08 (phone) R.L. Dotson, Keokuk – Supportive – He has been an avid bluegill and crappies fisherman for 20 or more years. Fishes Lake Sugema and Rathbun a lot. Twenty- five fish a piece is enough for anyone so long as you don’t mess with the possession limit. He routinely puts about 450 to 500 fillets in the freezer for eating over the winter. He used to hog the fish and recalls a trip to Lake Sugema a few years ago where he and his buddies cleaned about 400 fish one day and then scrambled for the bags of fillets. If everyone did that it would be trouble for future fishing. As an add he stated, “please do not place size limits on panfish.”

9-28-08 (email) Jimmy Thompson, Ames – Supportive – “It’s a good idea to put a catch limit of 25 daily on both bluegills and crappies. There is no need to keep more than that for eating purposes. Some people keeping more than that are probably not cleaning all fish, but throwing some away.”

9-28-08 (phone) Tom Doggett, Lowell – Supportive – We should have had a limit on crappie and bluegill years ago.

9-29-08 (email) Allan Shook, Mt. Pleasant – Supportive – He is an avid 82 year old fisherman who “has no objection to having daily bag limits on panfish as the fishing pressure has grown much greater over the years.” He likes the no possession limit rule. He says both Missouri and Kansas have very confusing laws with different regulations on different bodies of water. “I think Iowa in comparison to these two states is a fisherman’s dream.”

9-30-08 (email) Dave Lafever, Burlington – Supportive – He is strongly in favor of limits for crappies and bluegills in Iowa. He also recommends size restrictions. “A possession limit of two

bags would not be restrictive and while I realize this is nearly impossible to enforce it would send a message of moderation to the person pulling spawning bluegills off he beds.”

10-1-08 (phone) Neal Goldsburg, no town – Supportive – Would really like to see the 25 limit go through. Also would like to see the limit on poles increased to eight or so like in Missouri.

10-1-08 (letters) Les Lammegs, Spencer; Ronald Mathers, Kingsley; Dennis Veenger, Sibley; Max Utesch, LeMars; Dennis and Linda Carlson, Milford; Michael Mack, Burt; Bob Wittkop, LeMars; Ron Holtzen, Ringsted; Joanne Klohs, LeMars; Steve Ohm, LeMars; Derek Langel, LeMars; Steve Rowe, LeMars; Don Langel, LeMars; Merlyn Feddersen, Hartley; Mike McDougall, LeMars; Scott Lauters, LeMars; Randall Kroese, LeMars; Kirk Klohs, LeMars; Ron Van Kalsbeek, Hospers; Wayne Boggman, Hartley; Rog Klopp, LeMars; Frank Tritz, LeMars; David Hoffman, LeMars; Bruce Tewes, Hartley – Supportive – They are unable to attend any of the public meetings but support the proposal of a daily limit of 25 crappie and 25 bluegill.

10-1-08 (letter) Landon Dillingham, Spirit Lake – Supportive – He fully supports the 25 crappie and bluegill limit and thinks it is a very good idea to help our environment.

10-1-08 (email) Robin, no town – Not Supportive – He did not know there was a problem with panfish being extinct that we need to put on a bag limit. He says you cannot afford to travel if you cannot keep more than 25 fish. He is not against a limit of say 30 to 50 fish. Under the new provision he would be able to keep 9,125 fish a year, but he never will be in a position to ever have this many. There are days when he can catch 50 or so. Lower my license fee if you set a limit. The limit set on the Mississippi River is great because most people fishing on the river don’t want to eat the sewer ridden fish that swim in those waters.

10-2-08 (letters) Tanner Green, Lake Park; Paul Donnerwerth, Spirit Lake; Jeff Alger, Milford; Ken Rfynohs, Arnolds Park; Kim Andrea, Milford; Pat Graves, Arnolds Park; Norm Herzog, Arnolds Park; LeRoy Herdeman, Spirit Lake; Quinton Rifmruth, Milford; Rodney Swanson, Spirit Lake; Lyn Johnson, Milford; Robert Simanek, Arnolds Park; Jim Burgeson, Arnolds Park; Shane Kendall, Spirit Lake; Jeff Koos, Spirit Lake; Dale Mellmann, Arnolds Park; Neal Haush, Okoboji; Monica Heideman, Spirit Lake; Deb Kyle, Milford; Dan Gand, Spirit Lake; Tim Jansen, Spirit Lake; Darlene Leiss, Spirit Lake; Doyle Leiss, Spirit Lake; Jeff Kyle, Milford; LeRoy Koep, Spirit Lake; Harvey Larson, Milford; Patricia Hyatt, Milford; Merle Dopp, Spirit Lake; Marvin Hyatt, Terril; Chris Alger, Milford; Arnold Tober, Milford; Al Hicks, Milford; Harry Oakley, Holstein; Vance Guinn, Spirit Lake; Dennis Stoltenberg, Lake Park; Ron Lange, Spirit Lake; Dave VanRoekel, Spirit Lake; Shane Rossor, Jackson, MN; Bill Kramme III, Spirit Lake – Supportive – They are unable to attend any of the public meetings but support the proposal of a daily limit of 25 crappie and 25 bluegill.

10-4-08 (email) John Richers, Fort Madison – Supportive – He says we should put a 25 limit on everyone and enforce it. He has been fishing crappies for over 70 years and has seen a constant deterioration of quantity and quality of panfish fishing. He has seen out of state people come to Rathbun and boast of having 150 pounds of filets to take back to Missouri where they are allowed 15 fish.

10-4-08 (email) Harlan Herbst, LeMars – Supportive – He supports the limits of 25 crappie and 25 bluegill.

10-5-08 (email) Linda Vande Kieft, Wilton – Supportive – As an avid crappie fisherman she travels to Missouri to fish in addition to Rathbun. She is used to Missouri's limits and feel they are good for the fishermen. Hearing people brag about the hundreds of crappie they take out of Rathbun, the question is Why? With the limits, you can catch enough for a decent meal and have a reason to go back for another outing.

10-5-08 (email) Thomas Doering, Davenport – Supportive – He is fully in favor of the proposed amendments. He believes these changes would help prevent those selfish fishermen who take hundreds of fish per day from some lakes in southern Iowa.

10-6-08 (letter) John Harris, Cedar Falls – Supportive – Views the proposal as merely a start of what would be appropriate regulation of the fisheries. Would like to see a possession limit on panfish in addition to the daily bag limit. He hopes to see more regulations including those directed at specific lakes and waterways. He contends we are way behind the curve on regulations compared to those found in neighboring states.

10-7-08 (letter) Jim Glosser – Centerville – Supportive – “This is the right thing to do.” He has witnessed a group from Illinois catch and keep 1,000 to 1,200 crappies a day with some only being 4 – 6 inches long. He says this is excessive, greedy and poor sportsmanship.

10-7-08 (email) Jeff Pierson – Ottumwa – Supportive – He totally agrees with the proposal and says it is long overdue. Says we also need a size limit on crappie. Residents from Illinois and Missouri come up here and have 5 gallon buckets with 6-inch crappie to clean. He believes size limits have enhanced the size of fish in Missouri. He also would like to see Iowa increase the number of poles for crappie tournaments. Contends that only Iowa and Minnesota limit the number of poles for crappies. We would get more southern teams to come to Iowa and help tourism if we relaxed the pole limit.

10-7-08 (email) Bob Card – no town – Not Supportive – Says most if not all our lakes and rivers are overrun with panfish and stunted.

10-8-08 (email) Eric Stark – Nebraska – Supportive – He feels a limit of 25 on both species would do no harm. “Fifty fish equals 100 fillets and that is a lot of cleaning and a lot of eating.” He is unsure of what the effects of putting the proposed limit on panfish would be, but many of the surrounding states have limits and tend to maintain quality fish. If it would cause more harm due to over population than he is against it. It strikes a bone with him when he hears of anglers catching 200 to 300 bluegills at a time out of lakes. He says he has confidence that the Iowa DNR will make the right decision.

10-8-08 (email) Gary Beyer – Camanche – Not Supportive – He says that with hunting and fishing revenues already on a downward trend and the economy stretching everyone, why would he drive as much as 100 miles to the nearest good lake for 25 fish? He wants us to keep it reasonable.

10-8-08 (email) Dan Marron – Nebraska – Supportive – He doesn't think a 25 per species limit will be a big deal other than it's change and the masses don't like change. It will prevent the buckets from being taken out during those vulnerable times in late winter before ice out and spawn times. He says just don't mess it up like Nebraska and put too tight of restrictions leading to lakes full of panfish that are stunted because there are so many. He believes we do a terrific job in Iowa and our



programs are “heads and shoulders above Nebraska.” He is not sure why we are proposing the limits but trusts our biologists.

10-9-08 (email) Erik Mottl - Grinnell - Supportive – He is in favor of the 25 fish limit, but hopes in the future the number is reduced even further. He has witnessed many people on days when the bite is on fill 5 gallon buckets of crappie. He objects to some people taking so much away from the rest of the anglers. He believes we would have better fishing in Iowa if these some of these fish were given another year or more to grow.

10-10-08 (email) Duane Billman – no town – Supportive – He says Missouri has had crappie limits for years and they have excellent fishing. He believes Iowa lakes need crappie and bluegill limits because of the fish hogs we have in this state.

10-10-08 (letter) Wilbur & Joy Muller – Grundy Center – Not Supportive – They enjoy catching and eating crappie and bluegill. They drive to Green Valley Lake to fish in the spring and catch enough fish to last them until the next spring. They will probably not drive that far to fish anymore if they can only bring home 25 crappie and 25 bluegill. They think a lot of revenue in Iowa will be lost. They also believe that the fish will become overpopulated and not grow.

10-10-08 (letter) Joe & Nancy Hammar, Shere Bluhm, Jessica Bluhm, and E K Bluhm; New Hartford and Roger & Verlene Damon and Lee & Kathy Aalfs; Parkersburg – Not Supportive – They object to the 25 daily bag limit on panfish and hope the committee considers the ramifications of passing such a law.

**Public Hearing  
Cedar Falls  
October 1, 2008**

<u>Name</u>	<u>Address</u>
Pat & Jerry Nagel	3710 S. Raymond Rd, Waterloo, IA 50701
Aaron Nagel	1621 6 <sup>th</sup> St., Gilbertsville, IA 50634
David Strack	2745 E. Big Rock Rd., Waterloo, IA 50703
Andy Gray	2111 Marquis Rd. Waterloo, IA 50622
John Nagel	253 Michigan Dr., Elk Run Hgts., IA 50707
Bruce Timmerman	2611 N. 8 <sup>th</sup> St., Waterloo, IA

10-1-2008 Public Hearing Located at Cedar Falls

Jerry Nagel – Not Supportive – He has fished all the lakes in southern Iowa. They camp at Green Valley Lake and have fish fries for all the campers. He and his wife commonly catch 90 to 200 fish per day. They never keep bass. He says they stand right by anglers who can’t catch any fish and then they blame us for ruining the lake. He and his wife had 1,400 fish in the freezer and ran out. They clean every fish they keep and do not waste them. Sometimes they give fish away. If this goes through a lot of people will quit camping.

Pat Nagel – Not Supportive – She says they have never fished out a lake. They usually camp at Green Valley from late April to mid June.

David Strack – Not Supportive – If surrounding states have restrictive bag limits on panfish, then limit them to that limit when they fish here. Don’t punish us.

Aaron Nagel – Not Supportive – Does not see a need for a limit.

Andy Gray – Not Supportive – The decision ought to be based on good science rather than on people’s feelings.

John Nagel – Not Supportive – We have caught tons of fish from Greenfield Lake and it is always good again next year. When DNR drains a lake they kill way more fish than we do as anglers. He can’t believe it won’t monetarily hurt local communities. He said that if there was a study that showed we hurt fishing in a lake, than he could understand. He hopes it hasn’t already been decided because it would be the biggest mistake.

Bruce Timmerman – Not Supportive – He asked why we are doing this if not based on science. He thinks we need to get the word out to more people that heavy fishing doesn’t hurt a lake. He says fishermen trust us to base decisions on science, not emotion.

**Public Hearing  
Spirit Lake  
October 2, 2008**

<u>Name</u>	<u>Address</u>
Steve Anderson	705 6 <sup>th</sup> Street, Milford, Iowa 51351
Ryan Hale	1711 Jeppeson Road, West Okoboji, Iowa 51351
Joel Vos	1210 28 <sup>th</sup> Street, Spirit Lake, Iowa 51360
Greg Drees	196 Park Place, Arnolds Park, Iowa 51331
Roger Wachal	606 20 <sup>th</sup> Street, Spirit Lake, Iowa 51360
Joe Ulman	13620 240 <sup>th</sup> Avenue, Spirit Lake, Iowa 51360
Larry Eckard	12275 253 <sup>rd</sup> Avenue, Spirit Lake, Iowa 51360
Scott Berry	15825 Furman Road, Spirit Lake, Iowa 51360
Phil Petersen	2305 Holliday Way, Okoboji, Iowa 51355
Steve Weissman	PO Box 200, Arnolds Park, Iowa 51331
Joe Enders	25762 168 <sup>th</sup> Street, Spirit Lake, Iowa 51360
Gary Biederman	207 East Watson, Everly, Iowa 51338
Orville Belken	Box 28, Arnolds Park, Iowa 51331
Gretchen Graff	13175 253 <sup>rd</sup> Avenue, Spirit Lake, Iowa 51360
Wally Jorgensen	1409 28 <sup>th</sup> Street, Spirit Lake, Iowa 51360
Scott	508 25 <sup>th</sup> Street SW, Spencer, Iowa 51301
Ron Wasmund	482 Dam Road, Arnolds Park, Iowa 51331
Ken Mead	512 4 <sup>th</sup> Avenue SW, Spencer, Iowa 51301
Viola Hagedorn	13367 253 <sup>rd</sup> Avenue, Spirit Lake, Iowa 51360

10-2-2008 Public Hearing Located at Spirit Lake:

Joe Anders, Spirit Lake – Supportive. Would like to see the limit even more restrictive: 25 fish aggregate – bluegill, crappie, yellow perch. He believes ice fishing pressure on IGL is significant and could be harming the fishery.

Ryan Hale, West Okoboji – Supportive. He is a guide on IGL and owns a small resort that caters to anglers. He has a concern that the bag limit might encourage an even greater harvest because anglers want to catch their limit and may not stop until they do. He also has customers from

Wisconsin who have told him they like the liberal panfish limits in Iowa and if a bag limit is implemented they would stop coming. This regulation may hurt bait shops and businesses in the area.

Wally Jorgensen, Spirit Lake – Supportive. He represents the IGL Fishing Club (200 members) and they feel this is an ethics issue and they like the regulation because it places a value on panfish.

Steve Anderson, Milford – Not supportive. He is opposed to the regulation because he believes it is not science based and the research shows it will not improve or protect the fishery. Minnesota DNR have utilized panfish bag limits in order to please anglers and the fishery has not improved so anglers believe something is wrong. If the Iowa DNR is going to place a bag limit on panfish then they should place one on bullhead because their populations have declined and they are getting more and more difficult to catch.

Viola Hagedorn, Spirit Lake – Supportive. Would like to see the limit even more restrictive: 25 fish aggregate – bluegill, crappie, yellow perch.

Joel Vos, Spirit Lake – Not supportive. Panfish size has gotten smaller in Minnesota because of limits they have placed, so more anglers are coming to Iowa to catch larger sized fish. Why would we make the same mistake?

Joe Ulman, Spirit Lake – Supportive. He likes the balance with the daily bag limit, but no possession limit. This will help stop the buckets full going out of our lakes.

Ron Wasmund, Arnolds Park – Supportive. On Lake Minnewashta the quality (size) of the bluegills has gone down. He is opposed to buckets full going out and is hopeful that this regulation will improve the size in the future.

Ken Mead, Spencer – Supportive. Bluegills are an excellent fish to get kids interested in fishing. This is a valuable resource that we need to protect and he would favor a possession limit along with the bag limit.

Steve Weisman, Arnolds Park – Supportive. The 25 fish limit is truly a bucket of fish – that is plenty. There is a need to limit some anglers who can't limit themselves. This is an ethical issue and in his opinion 25 is enough. He realizes the limit does not have biological reasons.

Gretchen Graff, Spirit Lake – Supportive. Supporting the opinion of the IGL Fishing Club on this issue.

Orville Belken, Arnolds Park – Supportive. He doesn't approve of Wisconsin anglers coming to the IGL and harvesting excessive numbers of panfish. South Dakota has limits on panfish and he still travels there and purchases a license to catch yellow perch. Harvesting fish until you have to eat 40 per day is not right.

**Public Hearing  
Des Moines  
October 3, 2008**

<b><u>Name</u></b>	<b><u>Address</u></b>
Terry Hampshire	906 Elm, Norwalk, IA
Jack Salisbury	1008 Maple Ave., Norwalk, IA
Don Rieks	1007 Belle Mar Dr., West Des Moines, IA
Sonny Satre	4305 68 <sup>th</sup> St., Urbandale, IA
Bob Dowson	4141 52 <sup>nd</sup> , Des Moines, IA
Joe Judge	4708 Cody Dr., West Des Moines, IA

10-3-2008 Public Hearing Located in Des Moines

Bob Dowson - Supportive - He has been in favor of a bag limit for many years. He has fished for 60 years or more. He has witnessed an angler who disposed of a bucket full of crappie into the fish cleaning station grinder at Big Creek Lake. We have to respect the resource and believes a bag limit would help fortify that.

Sonny Satre - Supportive - Believes 25 fish is plenty for anyone.

Don Rieks - Supportive - He is a property owner at Sun Valley Lake. They have a 15 limit on crappie and a 25 limit on bluegill. It has been working. They have 9 – 10 inch bluegill and crappie up to 16 inches. He is all for the 25 daily bag limit.

Terry Hampshire - Not Supportive - He thinks there is a lot of jealousy among anglers. He believes people will quit fishing if the regulation is implemented. He says he has heard for years from us that you can't hurt a lake by over fishing. He cooks fish for a retirement home in Norwalk and it takes about 50 fish. He says nonresidents spend a lot of money here. We need to address water quality and not bag limits. Our crappie fishing is so much better than adjoining states.

Joe Judge - Supportive - Twenty-five crappie is pretty liberal. He says crappies are bigger in Kansas where they have a bag limit. He would like to see a size limit on crappies because people here often keep 5 to 6-inch fish.

Jack Salisbury – Supportive – He fishes a lot and says he is in favor of the proposed limits.

**Public Hearing  
Ottumwa  
October 10, 2008**

<b><u>Name</u></b>	<b><u>Address</u></b>
James Glosser	16497 HWY J29, Centerville, IA
Terry Jennings	31188 485 <sup>th</sup> St., Unionville, IA
Bruce Switala	2715 Clearview, Ottumwa, IA
Pat Nicolette	2005 Dix Drive, Unionville, IA
George & Pat Scalf	123 N. Madison Ave., Ottumwa, IA

## 10-09-08 Public Hearing Located Near Ottumwa

George Scalf – Not Supportive - He understands and supports the 25 limit on crappie but not on bluegill. He believes when you thin down bluegill you have better size quality.

Terry Jennings - Supportive - Twenty-five fish is a good number. He is opposed to people keeping too many fish and not cleaning them all. It is a waste of a resource. He wishes we had a possession limit too.

Bruce Switala – Supportive— Claims the crappie fishing in Lake Rathbun has gone downhill especially for large fish. Has observed an increase in fishing pressure. He also would support a 10-inch size limit. He says we need to enforce the regulations. He did express concern about the growth of crappie in smaller lakes.

Pat Nicolette - Supportive - He agrees with the rule proposal. States that you can catch bigger fish in Missouri where there are limits. He has observed crappies being discarded from 5 gallon buckets and wasted.

Jim Glosser - Supportive - He has seen a few groups of greedy people spoil it for everyone else. There is a group of six Illinois anglers in three boats who fish Rathbun during the crappie spawn to fill the freezer they have brought. He'd rather see the catch spread among more people.

Moved – Commissioner Drees

Seconded – Commissioner Garst

Discussion – Commissioner Francisco read a letter consisting of a collection of comments he had received from public comments. Commissioner Rettig questioned the purpose for this rule change if the biologist have confirmed that the proposed pan fish bag limit will be have no benefit on the species. Regulations should be passed if they improve the natural environment, species and wildlife of the state. Marion Conover countered with information both scientific and public support comments.

### **Roll Call Vote**

William Bird - aye

Gregory Drees - aye

Richard (Kim) Francisco - nay

Elizabeth Garst - aye

Tammi Kircher - aye

Carol Kramer - nay

Janelle Rettig – nay

Motion – Carried with a majority 4 votes

## **12. Hardwood Timber Sale Stephens State Forest**

The Natural Resource Commission is asked to approve the sale of an estimated 104,360 board feet of mixed hardwood trees at the Stephens State Forest. The sale consists of 569 trees.

Species	Number of Trees by Diameter			BF Volume
	16" - 18"	20" -24"	26" +	
Red oak	76	95	50	45,220
White oak	109	97	42	44,300
Walnut	2	14	2	4,800
Other	59	23	0	2,860
Total	246	229	94	104,360

A shelterwood management system will be used in accordance with the Stephens State Forest Management Plan to remove sixty to seventy percent of the canopy in this stand. The harvest will create small openings and allow for natural regeneration of oak and other tree species. Prescribed fire may be used periodically as a management tool to stimulate oak regeneration and control competing vegetation after the harvest. The remaining trees in the stand will provide a seed source for natural regeneration to supplement the natural oak regeneration already present in this stand. In a few years, when the new forest is well established, the remaining larger trees will be harvested to release the young stand of trees.

A natural areas inventory was conducted, and there are no known threatened and endangered species in the harvest area. Some oaks in this stand are declining due to oak wilt. Many of the trees in the stand were damaged or uprooted by high winds. Salvage of the damaged trees will help prevent the spread of disease through the stand.

Wildlife den trees will not be marked and will be left standing. Best management practices (BMP's) will apply to the site. No tops or harvesting residue will be left in adjacent waterways. Harvesting is to occur only when ground is firm or frozen to minimize soil disturbance. Skid trails and landing areas will be repaired following the harvest. No skid trails will be allowed in the SMA (within 50 feet of the adjacent waterway) except at designated stream crossings.

**The following bids were received for the sale:**

Company	Location	Amount of Bid
Dan Jones Logging	Waterville, IA	\$35,325.00
Seals Select-Cut Logging	Moravia, IA	\$32,128.00

The Commission is requested to approve a contract with the high bidder, Dan Jones Logging for \$35,325.00.

September 11, 2008

NOTICE OF TIMBER FOR SALE

The State of Iowa is offering approximately 104,360 board feet (Scribner) of timber in 569 trees located on the Stephens State Forest. Trees are marked with orange paint. The trees are located on areas as shown on the enclosed maps. Bidders should satisfy themselves by examination as to the quality and quantity of timber offered. The timber is accessible through state land.

Species	Number of Trees by Diameter			BF Volume
	16" - 18"	20" -24"	26" +	
Red oak	76	95	50	45,220
White oak	109	97	42	44,300
Walnut	2	14	2	4,800
Other	59	23	0	2,860
Total	246	229	94	104,360

\* "Other" species include hickory, basswood, hackberry, and ash

\* There are an additional 108 cull trees marked with an orange "X". These trees may be harvested, but are not included in the BF volume of the sale.

Sealed bids will be received until 3:00 pm, Monday, October 13<sup>th</sup>, 2008 at which time bids will be opened. The sale will be awarded to the highest bidder, except that the seller reserves the right to reject any or all bids.

Mail or deliver bids to Jessica Flatt, Area Forester, Stephens State Forest, 1111 N. 8<sup>th</sup> Street, Chariton, IA. 50049. Phone (641) 774-4559. Telephoned bids will not be accepted. Bids will be opened at the forest headquarters.

The successful bidder must execute a timber sale contract with the State of Iowa within 14 days after notification that the sale has been approved.

Trees must be removed by April 13, 2010. Liability insurance is required. Buyers must be bonded.

#### Special Conditions

1. Jessica Flatt, Area Forester, will be notified when the logger is operating on the sale area.
2. Logging and transporting of logs will be permitted only when the ground is firm.
3. Trails and access lanes, rivers, and streams must be left free of tops and debris. All trails must be left smooth and without ruts.
4. The areas are open to logging activities from September 17 through April 13 each year.
5. Best Management Practices as described in *Iowa Forestry Best Management Practices* are to be followed particularly when working around or across water courses.
6. All creek or stream crossings will be approved prior to harvest with the Area Forester.

For further information, contact Jessica Flatt, Area Forester at (641) 774-4559.

**Amount bid for 569 trees with an estimated 104,360 board feet of timber on the Thousand Acre unit of Stephens State Forest**

\$\_\_\_\_\_

Date\_\_\_\_\_

\_\_\_\_\_  
Signature of Bidder

This bid must be signed by the person submitting the bid. Please write “sealed bid” on the outside of the envelope so it will not be opened by mistake.

Moved – Commissioner Drees

Seconded – Commissioner

Discussion – Appreciation comments for the learning tour yesterday were expressed. Value of timber was discussed.

Motion – Carried with unanimous vote

### **13. Final Rule - Chapter 71, Nursery Stock Sale to the Public**

The Department requests Commission approval to amend Chapter 71, Nursery Stock Sale to the Public. The proposed amendments allow a previous year’s purchaser to order less than 500 plants total with a minimum of 100 plants per species to complete a previous year’s planting, allow commercial nurseries to purchase and resell State Forest Nursery Stock with the roots attached, and amend the prices of plants available for sale.

The Department accepted public comments through September 30, 2008. A total of 16 comments were received during the 25 day comment period. One comment was received after the official public comment period. Fourteen of the comments were generally supportive of the changes and one was opposed. The late comment did not comment on the rules changes but on the SFN in general.

The one person opposed to the rule change felt it created unfair competition with the private nursery sector and further socialized government. Two people commented that they would like to see SFN stock be available for farmstead windbreaks. Two people commented that they thought SFN stock should be available for any use. Three people commented that they would like to buy in smaller quantities. Two people noted that they did not think this rule was detrimental to private sector nurseries.

Two proposed changes in the Notice of Intended Action are not included as part of this proposed final and adopted rule. They include changes to subrules 71.2(3)“b” and 71.2(3)“c”.

Moved – Commissioner Francisco moved to table topic

Seconded – Commissioner Drees to table topic

Discussion – Bureau Chief Paul Taulke requested in light of the public comments today that the topic be tabled so that the forestry area may conduct more public meetings to assist the public to have a better understanding of the proposed amendment and the rules surrounding the state forest nursery.

Motion – Carried with unanimous vote to table topic

### **14. Final Rule - Chapter 45, Boat Motor Regulations**

The Commission is asked to amend Chapter 45, “Boat Motor Regulations,” Iowa Administrative Code. This amendment was requested by the Adams County Conservation Board to eliminate the existing rule requirement for a 300 horsepower limit for motor boats on Lake Icaria in Adams County. Modern boats have higher horsepower rating (greater than 300hsp) and as a result, the



existing horsepower limit has restricted many of the recently manufactured boats from legal use/access to Lake Icaria.

No comments were received during the comment period and no changes were made from the rule published with the Notice of Intended Action.

#### NATURAL RESOURCE COMMISSION [571]

#### ***Adopted and Filed***

Pursuant to the authority of Iowa Code sections 455A.5(6), the Natural Resource Commission hereby amends Chapter 45, “Boat Motor Regulations,” Iowa Administrative Code.

This amendment is requested by the Adams County Conservation Board to eliminate the existing rule restriction of a 300 horsepower limit for motor boats on Lake Icaria in Adams County. Many modern boats have higher horsepower ratings (greater than 300) than older manufactured boats and, as a result, the existing horsepower limit has become outdated and is restricting many of the recently manufactured boats from legal use/access to Lake Icaria.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 8, 2008, as ARC 7217B. A public hearing was held on October 28, 2008. No comments were received during the comment period or at the hearing. No changes were made to the Notice of Intended Action.

This amendment is intended to implement Iowa Code section 462A.3.

The following amendment will become effective January 21, 2009.

---

The following amendment is adopted.

Amend subrule 45.4(3), paragraph “b,” as follows:

b. Lake Icaria, Adams County – motorboats of inboard/outdrive type ~~with power not to exceed 300 horsepower~~. Vessels must be operated at a no-wake speed when within 50 feet of another vessel which is not underway or is operating at a no-wake speed. Additional speed and distance regulations apply as established in 571—40.20(462A).

---

Date

---

Richard A. Leopold, Director

Moved – Commissioner Francisco

Seconded – Commissioner Garst

Discussion – Commission Drees expressed concerns about bank erosion if the existing rule restriction of 300 horsepower limit is eliminated. The size of this lake is also a factor of concern in reference to both bank erosion as well as safety. Staff is recommending that for consistency purposes in the Iowa Code that it be eliminated. Commissioner Rettig inquired about capabilities to monitor speed of a boat on a lake. There are currently DNR Officers equipped with radar devices now.

Motion – Carried with unanimous vote

#### **15. Final Rule – Chapter 106, Deer Hunting by Residents**

The Commission is requested to adopt a final rule to amend chapter 106, Deer Hunting by Residents. This rule sets the season dates, shooting hours, license types, quotas and restrictions, method of take, and tagging and reporting requirements for resident deer hunting. It also includes rules for issuing depredation licenses and shooting permits.

The proposed amendment clarifies that all shooting permits and depredation licenses issued through the depredation program will have a \$1 charge for the HUSH program and a \$1 writing fee added to the cost to be consistent with all other deer licenses issued by the Department.

NATURAL RESOURCE COMMISSION [571]  
Notice of Intended Action

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 106, "Deer Hunting by Residents," Iowa Administrative Code.

**Chapter 106 sets the season dates, shooting hours, license types, quotas and restrictions, method of take, and tagging and reporting requirements for resident deer hunting. It also includes rules for issuing depredation licenses and shooting permits. The proposed amendment clarifies that all shooting permits and depredation licenses issued through the depredation program will have a \$1 charge for the HUSH program and a \$1 writing fee added to the cost to be consistent with all other deer licenses issued by the Department.**

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 10, 2008, as ARC 7147B. A public hearing was held on October 21, 2008, and no comments were received. There are no changes from the Notice of Intended Action.

This amendment is intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48, 483A.24, 483A.24B, and 483A.24C. These amendments shall become effective January 21, 2009.

The following amendment is adopted.

**ITEM 1.** Amend subrule 106.11(4) by adopting the following new paragraph "e:"

e. A person who receives a depredation permit pursuant to this paragraph shall pay a one dollar fee for each license that shall be used and is appropriated for the purpose of deer herd population management, including assisting with the cost of processing deer donated to the help us stop hunger program administered by the commission and a one dollar writing fee for each license to the license agent.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Richard A. Leopold, Director

Moved – Commissioner Fransico Seconded – Commissioner Kramer Discussion – none Motion – Carried with unanimous vote
--

**16. Brushy Creek Trails Advisory Board Appointments**

Chapter 455A.8, Code of Iowa authorizes the Natural Resource Commission (NRC) to appoint seven members of the Brushy Creek Trails Advisory Board. The DNR Director is to provide the NRC a recommendation for appointments. The below recommendation is based on the average scores (in parentheses) provided by Commissioners, a proposed policy to not have spouses on the board at the same time, gender balance, and board membership transition factors. The NRC is requested to appoint the following seven applicants for the respective number of years that will establish a system of staggered terms:

Patrick Reed (34.6) – 3 years  
Linda Jenny (33.9) – 3 years  
Donna Christensen (33.3) – 3 years  
Kristi Schaaf (33.1) – 2 years

Beth Aswegan (31.4) – 2 years  
Ron Jacobson (31.1) – 1 year  
Mike Tinkham (29.3) – 1 year

The following are the average scores by the NRC for the other applicants:

Rick Schaaf (31.1)  
Kelly Keller (29.9)  
Terry Carson (29.0)  
Alycia Carlsborg (28.4)  
Myron Groat (26.7)

Rick and Kristi Schaaf are husband and wife. Kristi is recommended since she scored higher than Rick and she is an existing board member that will aid in board continuity during this time of membership transition. Mike Tinkham is recommended over Kelly Keller because of the little difference in average scores, gender balance, and Mike is a current board member whose past experience on the board will be beneficial to board continuity during this time of transition. The designated term lengths are based on average scores with the applicants with higher scores recommended for the longer terms.

The seven appointed members will be joined by Deb Lewis (Preserves Board designee), Chad Kelchen (Park Manager), and Kevin Szcodronski (DNR Director Designee) to make up the 10-member board in accordance with Chapter 455A.8, Code of Iowa.

Moved – Commissioner Kircher  
Seconded – Commissioner Drees  
Discussion – It should be considered to change the board appointment selection criteria to include ‘No two persons in the same household’ may serve on the board at the same time.  
Gender balance also needs to be considered when selecting future board members. Because of the application advertisement of this board they received a greater pool of applicants.  
Motion – Carried with unanimous vote

#### **17. Chapter 61, State Parks and Recreation Areas: Petition for Rulemaking**

On September 18, 2008, the Department received a petition, requesting the Department to modify 571 IAC chapter 61 to allow fitness swimmers to swim outside buoyed areas, a practice prohibited by the current regulations.

561 IAC 5.4(2) requires the Commission to grant or deny the Petition within 60 days unless the petitioner agrees to a longer period. The Department has met with Mr. Block, and he has agreed to an extension regarding Commission action on his petition. The Department will present additional information, which may include a Notice of Intended Action to modify 571 IAC chapter 61 or a recommendation not to institute a Notice of Intended Action to modify 571 IAC chapter 61, at the regular meeting of the Commission, scheduled to be held in December 2008.

Moved – Informational item only  
Seconded –  
Discussion – Triathlons are a growing trend being requested to be hosted at state parks. The economic development is a benefit as well. Safety issues are a major concern. The Parks Bureau is currently working to review all safety & liability issues. Several options were discussed such

as a need to use an observer, hours allowed to train or conduct events, flagging of a swimmer. The Parks Bureau plans to bring this issue back at the next meeting in December.  
Motion – Carried with unanimous vote

**18. Notice of Intended Action – Chapter 13 – Permits and Easements for Construction and Other Activities on Public Lands and Waters**

The Commission is requested to approve this Notice to amend Chapter 13, “Permits and Easements for Construction and Other Activities on Public Lands and Waters.” Chapter 13 regulates construction activities that occur on state owned and managed lands and waters pursuant to the authority described by Iowa Code section 461A.4.

The proposed amendment rescinds the prior chapter and adopts a new one. The new regulations clarify the process the Department of Natural Resources will utilize in evaluating applications for construction permits, easements and leases; describe standards and criteria that must be met to receive a construction permit, easement or lease; establish definitions of sovereign waters; define inspection procedures; impose civil penalties, as allowed by Iowa Code, for failure to comply with the regulations; and amend the appeals process for applications which are denied according to the standards and criteria.

A statewide public meeting will be held on January 8 utilizing the Iowa Communications Network, or ICN. Exact locations of the meetings are described in the preamble of the attached notice.

Diane Ford-Shivvers, Deputy Division Administrator  
Conservation and Recreation Division  
November 13, 2008

Attachment: Notice of Intended Action: Chapter 13, Permits and Easements for Construction and Other Activities on Public Lands and Waters

NATURAL RESOURCE COMMISSION[571]  
Notice of Intended Action

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to rescind Chapter 13, “Permits and Easements for Construction and Other Activities on Public Lands and Waters,” and adopt **new** Chapter 13, “Permits and Easements for Construction and Related Activities on Public Lands and Waters,” Iowa Administrative Code.

The proposed amendment rescinds the prior chapter and adopts a new one. The new regulations clarify the process the Department of Natural Resources will utilize in evaluating applications for construction permits, easements and leases; describe standards and criteria that must be met to receive a construction permit, easement or lease; establish definitions of sovereign waters; define inspection procedures; impose civil penalties, as allowed by Iowa Code, for failure to comply with the regulations; and amend the appeals process for applications which are denied according to the standards and criteria.

Any interested person may make written suggestions or comments on the proposed amendment on or before January 9, 2009. Such written materials should be directed to Inga Foster, Department of Natural

Resources, Wallace State Office Building, 502 East 9<sup>th</sup> Street, Des Moines, Iowa, 50319-0034; fax (515)281-6794; or e-mail Inga.Foster@dnr.iowa.gov. Persons who wish to convey their views orally should contact Inga Foster at (515)281-8967 or at Ms. Foster's office on the fourth floor of the Wallace State Office Building.

Also, the Department will hold a public hearing utilizing the Iowa Communications Network (ICN) on January 8, 2009 at 6 p.m. The ICN locations at which the public may participate are as follows:

State Historical Building  
600 East Locust  
Room #157 - Heritage Classroom C  
Des Moines, Iowa  
Area Education Agency 267 Regional Office  
9184B 265th Street  
State Room  
Clear Lake, Iowa  
Iowa Western Community College  
2700 College Road  
Looft Hall, Room 024  
Council Bluffs, Iowa  
Keystone Area Education Agency  
2310 Chaney Road  
Room #2  
Dubuque, Iowa  
Kirkwood Community College  
1816 Lower Muscatine Road  
Room 117  
Iowa City, Iowa  
Great Prairie Area Education Agency  
2814 N Court Street  
Ottumwa, Iowa  
Spirit Lake High School  
2701 Hill Avenue  
Distance Learning Center  
Spirit Lake, Iowa

At the public hearing, persons may present their views either orally or in writing. Persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

Any person who intends to attend a public hearing and has special requirements such as those related to hearing or mobility impairments should contact the Department of Natural Resources and advise of specific needs.

These amendments are intended to implement Iowa Code sections 461A.4, 461A.5A, 461A.5B, 461A.6, 461A.18, 461A.25 and 462A.3.

The following amendment is proposed.

Rescind 571—Chapter 13 and adopt the following new Chapter 13 in lieu thereof:

**CHAPTER 13**  
**PERMITS AND EASEMENTS FOR CONSTRUCTION AND RELATED ACTIVITIES ON**  
**PUBLIC LANDS AND WATERS**

**571—13.1(455A,461A,462A) Purpose.** The commission holds lands and waters under its jurisdiction in public trust and protects the interests of all citizens in these lands and waters. These rules establish procedures and regulate the evaluation and issuance of permits for construction or other activities that alter the physical characteristics of public lands and waters under the jurisdiction of the commission, including those activities that occur over or under such lands and waters. These rules also establish procedures for issuance of easements to public utilities and political subdivisions for activities that are determined to have a permanent effect on use and enjoyment of public lands and waters under the jurisdiction of the commission.

**571—13.2(455A,461A,462A) Affected lands and waters.** These rules are applicable to all fee title lands and waters, dedicated lands and waters under the jurisdiction of the commission and managed by the commission for public access to a meandered sovereign lake or meandered sovereign river, meandered sovereign lakes, meandered sovereign rivers, and sovereign islands, except those portions of the Iowa River and the Mississippi River where title has been conveyed to charter cities.

**571—13.3(455A,461A) Definitions.** For the purposes of this chapter, the following definitions shall apply:

“Applicant” means the person who applies for a permit or easement pursuant to these rules.

“Authorized agent” means a person designated by the applicant, and who certifies the application according to subrule 13.9(2), that shall be responsible to perform part or all of the proposed activity.

“Canal” means narrow strips of water, artificially made, between two water bodies described in rule 571--13.2(461A).

“Cantilever access structure” means a structure constructed for improving the proximity of access to a lake or river having a support footing located entirely on littoral or riparian land above the ordinary high water line and extending from the footing completely suspended above the water at normal water elevation with no occupation of the lakebed or riverbed.

“Channel” means a narrow body of water that may be natural or artificially made.

“Charter cities” means the city of Wapello operating under special charter enacted in 1856; the city of Camanche operating under special charter enacted in 1857; the city of Davenport by chapter 84, Acts of the 47<sup>th</sup> General Assembly; the cities of Burlington, Clinton, Dubuque, Fort Madison, Keokuk, and Muscatine by chapter 249, Acts of the Fifty-first General Assembly; and the city of Le Claire by chapter 383, Acts of the 58<sup>th</sup> General Assembly.

“Commercial boat ramp” means a boat ramp installed or maintained as part of a business to provide access to a public water body where use of the ramp is available to the general public.

“Commission” means the natural resource commission.

“Department” means the department of natural resources.

“Director” means the director of the department of natural resources or a designee.

“Easement” means an easement authorized under Iowa code section 461A.25.

“Fee title lands and waters” means lands and waters where title is acquired by deed or testamentary devise.

“Lease” means a lease authorized under Iowa code section 461A.25.

“Littoral land” means land abutting a lake.

“Meandered sovereign lakes” means those lakes which at the time of the original federal government surveys were surveyed as navigable and an important water body that were transferred

to the states upon their admission to the union to be transferred or retained by the public in accordance with the laws of the respective states. The state of Iowa holds sovereign title in trust for the benefit of the public to the beds of the following lakes:

<b><u>County</u></b>	<b><u>Lake</u></b>
Allamakee	Kains
	Lansing Big Lake
	Mud Hen
	New Albin Big Lake
Buena Vista	Pickeral
	Storm
Calhoun	North Twin
	South Twin
	Tow Head
Cerro Gordo	Clear
Clay	Dan Green Slough
	Elk
	Mud
	Round
	Trumbull
Delaware	Silver
Dickinson	Center
	Diamond
	East Okoboji
	Hottes
	Jemmerson Slough
	Little Spirit
	Lower Gar
	Marble
	Minnewashta
	Pleasant
	Prairie
	Silver
	Spirit
	Swan
	Upper Gar
	Welch
	West Okoboji
Emmet	Birge
	Cheerers
	East Swan
	Four Mile
	Grass
	High
	Ingham
	Iowa

	Ryan
	Tuttle
	Twelve Mile
	West Swan
Greene	Goose
Hamilton	Little Wall
Hancock	Crystal
	Eagle
	East Twin
	West Twin
Harrison	Nobles
Johnson	Swan
Kossuth	Goose
	Burt
Monona	Blue
Osceola	Rush
	Iowa
Palo Alto	Five Island
	Lost Island
	Rush
	Silver
	Virgin
Pocahontas	Clear
	Lizard
Pottawattamie	Carter
	Manawa
Sac	Black Hawk
Winnebago	Harmon
	Rice
Woodbury	Browns
Worth	Silver
Wright	Big Wall
	Cornelia
	Elm
	Morse

“Meandered sovereign rivers” means those rivers which at the time of the original federal government surveys were surveyed as navigable and an important water body that were transferred to the states upon their admission to the union to be transferred or retained by the public in accordance with the laws of the respective states upon their admission to the union. The state of Iowa holds sovereign title in trust for the benefit of the public to the beds of the following rivers:



<b><u>River and description</u></b>
The Mississippi River from the south boundary of the state of Minnesota to the north boundary of the state of Missouri.
The Missouri River from the south boundary of the state of South Dakota to the north boundary of the state of Missouri.
The Big Sioux River from the south boundary of the state of Minnesota to the south boundary of the state of South Dakota.
The Des Moines River from the Mississippi River to the west line of Section 7, Township 89 North, Range 32 West, Palo Alto County (west branch) and to the north line of Section 2, Township 95 North, Range 29 North, Kossuth County (east branch).
The Cedar River from the Iowa River to the west line of Section 7, Township 89 North, Range 13 West, Black Hawk County.
The Iowa River from the Mississippi River to the west line of Section 7, Township 81 North, Range 11 West, Iowa County.
The Little Maquoketa River from the Mississippi River to the west line of Section 35, Township 90 North, Range 2 East, Dubuque County.
The Maquoketa River from the Mississippi River to the west line of Section 18, Township 84 North, Range 3 East, Jackson County.
The Nishnabotna River from the north boundary of the state of Missouri to the north line of Section 1, Township 67 North, Range 42 West, Fremont County.
The Raccoon River from the Des Moines River to the west line of Section 30, Township 78 North, Range 25 West, Polk County.
The Skunk River from the Mississippi River to the north line of Section 1, Township 73 North, Range 8 West, Jefferson County.
The Turkey River from the Mississippi River to the west line of Section 30, Township 95 North, Range 7 West, Fayette County.
The Upper Iowa River from the Mississippi River to the west line of Section 28, Township 100 North, Range 4 West, Allamakee County.
The Wapsipinicon River from the Mississippi River to the west line of Section 19, Township 86 North, Range 6 West, Linn County.

“Native stone riprap” means broken stone, dolomite, quartzite or field stone meeting Iowa Department of Transportation specification 4130, Class D.

“Ordinary high water line” means the boundary between meandered sovereign lakes and rivers, except the Mississippi River, and littoral or riparian property. It is the limit where high water occupies the land so long and continuously as to wrest terrestrial vegetation from the soil or saturate the root zone and destroy its value for agricultural purposes. It is the boundary between upland and wetland as defined by the U. S. Army Corps of Engineers Wetlands Delineation Manual dated

January 1987. For Storm Lake and Clear Lake in Cerro Gordo County the elevation has been established by adjudication.

“Ordinary high water line of the Mississippi River” means the elevation as defined by criteria in the Code of Federal Regulations, November 13, 1986, (33 CFR Part 328.3) defined by the U. S. Army Corps of Engineers as where the water exists at or below such elevation 75 percent of the time as shown by water stage records since construction of the locks and dams in the river.

“Permit” means a sovereign lands construction permit issued pursuant to this chapter.

“Permittee” means a person who receives a permit pursuant to these rules, who may also include the authorized agent if designated pursuant to these rules.

“Person” is as defined in Iowa Code Section 4.1.

“Public boat ramp” means a boat ramp constructed to provide public access from public land to a water body.

“Public lands” means land under the jurisdiction of the commission, that is owned by the state or that has been dedicated for public access to a meandered sovereign lake or meandered sovereign river.

“Public Waters” means a water body under the jurisdiction of the commission that is owned by the state or that has been dedicated for public access to a meandered sovereign lake or meandered sovereign river.

“Riparian land” means land abutting a river.

“Sovereign island” means an island located within a sovereign meandered lake or a sovereign meandered river that was transferred to the state upon its admission to the union and whose title continues to be retained by the state.

“Standard riprap” means broken stone, dolomite, quartzite, field stone, or broken concrete meeting Iowa Department of Transportation specification 4130, Class D. Broken concrete shall not have reinforcing materials protruding from the surface of the riprap. Standard riprap shall not include petroleum based materials.

## **DIVISION I PERMITS**

### **571—13.4(455A,461A) Permits required.**

**13.4(1) General.** No person shall temporarily or permanently place or build any structure or alter the characteristics of public lands or waters under the jurisdiction of or managed by the commission without a permit issued by the department prior to commencement of such activities as provided in the rules of this chapter.

**13.4(2) Hazardous conditions.** Trees, rock, brush or other natural materials located on sovereign or dedicated lands may be removed by persons without a permit issued pursuant to these rules only after the department, in its sole discretion, determines and evidences in writing that a hazard or other detrimental conditions exist and that the proposed mitigative activity is appropriate. Such activity shall be limited to only the work required to address the immediate hazard or other detrimental condition. Any removal allowed by this rule shall conform to the requirements enumerated by the department regarding such removal, or it shall be deemed unauthorized action resulting in damage to state lands and waters. Persons proposing to remove hazards must contact a local department official and request an exception to a permit. The department official shall inspect the hazard and provide written authorization to proceed or require the person to apply for a permit.

**13.4(3) Impoundments.** These rules do not apply to river impoundments regulated by Iowa Code chapter 462A.

**13.4(4) Docks.** These rules do not apply to docks regulated by 571--Chapter 16, except as specifically described herein.

**571—13.5(455A,461A) Interest in real estate.** A permit shall be construed to do no more than give the permit holder a license to alter an area as specifically set forth in the permit. The permit creates no interest, personal or real, in the real estate covered by the permit.

**571—13.6(455A,461A,462A) Evaluation.**

**13.6(1)** In considering complete applications, the department shall evaluate the impact of the proposed activities on public use and enjoyment of public lands or waters, on the natural resources in the areas within and surrounding the proposed activities, and the department's present and future intended management for the area against the applicant's identified and reasonable need to undertake the proposed activities and the viable alternatives that may exist with respect to the proposed activities.

**13.6(2)** In no event shall the department issue a permit for activities that:

- a. May result in the taking, possession, transport, import, export, processing, selling, buying, transporting, or receiving any species, fish, plants or wildlife appearing on lists referenced in Iowa Code section 481B.5, unless the permittee meets one of the exemptions enumerated in rule 571--77.4(481B).
- b. Have not received flood plains permits pursuant to Iowa Code chapter 455B and Iowa Administrative Code 567--Chapters 70 through 76, if applicable.
- c. May impact littoral or riparian property owners without the express written permission of the littoral or riparian property owner.
- d. Do not comply with the standards defined in 571--13.7(461A).
- e. Interfere with department obligations or limitations related to federal funds or agreements or other restrictive covenants that may be applicable to the affected area.
- f. Allows fill to be placed beyond the ordinary high water line of waters described in rule 571--13.2(461A) for purposes of regaining land lost due to erosion.

**13.6(3)** The department may withhold a permit when the applicant has not obtained all other required permits or licenses necessary to construct and operate the proposed activity.

**571—13.7(455A,461A,462A) Review standards.** Department staff shall conduct an environmental review of the application. The following standards shall apply to permits issued under the rules of this chapter:

**13.7(1)** Uses of lands and waters. Development of public lands and public waters permitted by these rules shall be limited to projects that meet all of the following:

- a. Are built to minimally impact the natural resources of the public's recreational use and navigation on such lands and waters. Specifically, applicants must demonstrate they accomplish all of the following:
  - (1) Do not negatively impact water quality in or around the proposed permitted area.
  - (2) Minimize erosion and sedimentation in or around the proposed area.
  - (3) Minimize detrimental impacts to biological and botanical resources in or around the proposed area, including upland, wetland and sensitive areas and unique community structures.
  - (4) Comply with laws and regulations related to threatened and endangered species, through both federal and state programs.
- b. Utilize the smallest amount of public lands and public waters.
- c. Do not convert the public lands and waters to an exclusive or private use.
- d. Are the only viable method for conducting the activities and that no viable alternatives to constructing on public lands exist.

In completing this environmental review, different bureaus and staff members of the department will provide input based on law, professional judgment, data and accepted scientific theory.

**13.7(2) Shoreline erosion protection and retaining walls.** Shoreline erosion protection activities may be permitted if in compliance with 571--13.6(461A) and the following additional standards:

a. Shoreline erosion protection activities on meandered sovereign lakes shall be limited to placement of native stone riprap, extending to a maximum of 4 feet horizontally within or below the ordinary high water line elevation contour line. Placement of earth fill within the ordinary high water line shall not be allowed. Retaining walls, sheet piling, gabions or other retaining structures shall be placed at or above the ordinary high water line. When such retaining structures are placed at the ordinary high water line, they must be faced with riprap.

b. Shoreline erosion protection activities on meandered sovereign rivers, except the Mississippi River, shall be limited to placement of approved in-stream erosion control structures or native stone or standard riprap. Riprap shall extend riverward from the ordinary high water line at a slope of two feet horizontal to one foot vertical (2:1). Placement of earth fill within the ordinary high water line shall not be allowed. Retaining walls, sheet piling, gabions or other retaining structures shall not be placed within the ordinary high water line. When such retaining structures are placed at the ordinary high water line, they must be faced with riprap.

c. Shoreline erosion protection activities on the Mississippi River shall be limited to placement of approved in-stream erosion control structures or native stone riprap. Riprap shall extend riverward from the ordinary high water line at a slope of two feet horizontal to one foot vertical (2:1). Placement of earth fill within the ordinary high water line shall not be allowed. Retaining walls, sheet piling, gabions or other retaining structures shall not be placed within the ordinary high water line. When such retaining structures are placed at the ordinary high water line, they must be faced with riprap.

d. Retaining walls on all meandered sovereign lakes and meandered sovereign rivers. The landowner will be required to maintain the wall system at all times and take corrective measures to eliminate any nuisance condition, repair deterioration of the structure, eliminate erosion around the structure, and repair damage to the structure caused by the action of the water or ice. When a retaining wall or other structure is placed on the shoreline preventing the public from traversing the shoreline, the landowner shall grant the public a license to walk from their property within 15 feet of the top of the wall or structure for the purpose of traversing the shoreline.

e. Notwithstanding the prohibitions in this subrule, nothing in this subrule shall prohibit activities that would be part of habitat development or natural resources mitigation projects constructed or approved by a political subdivision of the state and subject to review under these rules.

**13.7(3) Quality of the applicant.** Applicants or authorized agents who have a current violation for another project are not eligible for consideration of a permit under these rules unless and until all other noncompliant projects have been remediated and any enforcement actions related to the same have been resolved or satisfied.

**13.7(4) Cantilever access structures.** Permanent cantilever access structures that lawfully exist and are lawfully permitted under prior sovereign lands construction permit rules as of the effective date of these rules shall be deemed lawfully permitted under these rules. All cantilever access structures that are not lawfully installed prior to the effective date of these rules or are installed after the effective date of these rules shall be regulated as docks by 571--Chapter 16.

**13.7(5) Beaches, canals and channels.** Permits may be granted to maintain existing beaches, canals and channels, lawfully installed as of the effective date of these rules, to ensure the navigation and safety of those existing lawful beaches, canals and channels. The department shall not permit new beaches, canals or artificial channels or expansion of existing beaches, canals or artificial channels, except that the department may permit new beaches, canals and artificial channels and expansions

of existing beaches, canals, and artificial channels when such would be under the jurisdiction of a political subdivision of the state, would be accomplished to provide public access to the water, and would meet the review standards established by these rules.

**13.7(6) Stationary blinds.** All stationary blinds installed on lands and waters described in rule 13.2 are subject to regulation by rule 51.6 and are not subject to the requirements of these rules.

**571—13.8(455A,461A) Leases or easements as a condition of permits.** If a permitted structure or its use will have a continuing impact on availability or desirability of public lands or waters for public use, the permit shall be conditioned on the requirement that the permittee obtain a lease or easement under Division II of this chapter. However a lease or easement shall not be required for proposed activities that are wholly within the scope of the permittee's littoral or riparian rights.

**571—13.9(455A,461A,462A) Permit application.** Permits shall be applied for on an application form provided by the department. Applicants shall state the need for the proposed construction or use, the availability of alternatives and measures proposed to prevent, minimize or mitigate adverse impacts to natural resources or public use of the affected area. The department reserves the right not to review incomplete applications. Each application, including all amendments, shall be signed by the applicant, and authorized agent if one shall be so appointed by the applicant, and shall acknowledge that the application is truthful and being made in good faith.

**13.9(1)** For purposes of this rule, the department will deem an application complete if all of the following criteria about the application are met:

- a. Provided on the department's form, and all fields are completed and legible.
- b. Includes the name(s), mailing address and phone number of the applicant(s) and authorized agent(s), if applicable.
- c. Describes the proposed activity, including:
  - (1) Physical address and legal description of where the proposed activity is proposed to occur; a written description of existing natural and man-made structures and features; an aerial photo, if possible or available; and a ground-level photo(s) showing the area with the activity is proposed to occur.
  - (2) Schematic or design plans, including cross sections and plan views, that accurately and clearly depict the proposed activities.
  - (3) Description of construction methods to complete the project, the methods used to transport material to the site, and the type and amount of material to be used.
  - (4) Description of measures proposed to prevent or minimize adverse impacts on the property in the proposed area.
  - (5) Description of construction methods to complete the project, the methods used to transport materials to and from the site, the location of any borrows or disposal sites, and the type and amount of material to be used.
- d. Where the proposed activities are in or near a meandered sovereign lake, meandered sovereign river, the schematic or design plans must include identification of the ordinary high water line.
- e. Describes alternative plans to undertake the activity that may be available to the applicant.
- f. Identifies the need for the proposed activity in the proposed project area.
- g. Provides a statement of consent for the department to enter the property during the term of the proposed permit.

**13.9(2)** For applications that provide for an authorized agent to perform part or all of the proposed activities, the following additional information shall be required to constitute a complete application:

- a. Statement signed by authorized agent and applicant

- b. Statement signed by the authorized agent acknowledging that the authorized agent is aware of such designation and responsible to complete the identified work.
- c. Description of the work to be completed by the authorized agent.

**571—13.10(455A,461A) Additional information or analysis required for permit review.**

**13.10(1)** The director may require applicants to provide additional information, at the applicant's sole cost, required to complete review of the application, including but not limited to, study of alternatives to construction on public lands and waters, social and environmental impacts of the proposed activities, professional surveys to establish the social and environmental impacts of the proposed activities, professional land surveys to delineate or show real property boundaries and other characteristics, and a professional real estate appraisal of the value that a permit may convey.

**13.10(2)** If the applicant does not respond to a request for additional information within 90 days of such request being made by the department, the department may withdraw the application from consideration and the applicant must re-apply for the permit.

**13.10(3)** When the director determines that the proposed activity will significantly affect the public interest, the director may hold a public meeting in the vicinity of the proposed activity. The director shall consider public input in conjunction with other information collected or provided as part of the application review when acting on a permit application where a public meeting is held.

**571--13.11(455A,461A) Permit issued or denied.** The department shall promptly review all permit applications and the director shall issue a permit or deny all or part of an application upon completion of review. A permit may include specified conditions denying the application in part, including the reasons for the conditions. The denial of a permit may include a proposed removal order. A permit denial decision and a permit that denies an application in part shall include notice of the applicant's right to an administrative appeal including a contested case under procedures in 571—Chapter 7. The applicant's request for a contested case may include a request for a variance or waiver under the provisions of Iowa Code section 17A.9A and 571—Chapter 11. The proposed decision in a contested case may be appealed to the commission under 571—Chapter 7.

**571--13.12(455A,461A) Authorized agent.** When an authorized agent is designated on the application for a permit and acknowledges the same, that authorized agent shall be responsible in the same manner as the permittee to comply with the terms of the permit issued.

**571--13.13(455A,461A) Inspection.** The department may inspect the location during the term of the permit to ensure the permitted activities comply with the terms of the permit. The permittee shall grant the department the right to access the permitted activities for purposes of inspecting the permitted activities during the term of the permit. If the permittee denies permission for entry, the department may obtain an order from the Iowa District Court for the county in which the permitted activities or the majority of the permitted activities, occur, as needed to enable the department to carry out its inspection duty. The intent of this inspection is to evaluate compliance with permit conditions and the impacts to the natural resources and the public's recreational use of the area.

**571—13.14(455A,461A) Additional information or analysis required during term of the permit.** The director may require permittees to provide additional information, at the permittee's sole cost, required to ensure the permittee is complying with the terms of the permit, including but not limited to social and environmental impacts of the activities, professional surveys to establish the social and environmental impacts of the activities, professional land surveys to delineate or show real property boundaries and other characteristics, and a professional real estate appraisal of the value that a permit may convey or has conveyed.

**571—13.15(455A,461A) Unauthorized construction; citation; notice; proposed removal order.**

**13.15(1) Violations.** A person violates these rules and Iowa Code section 461A.4 by performing construction on or undertaking other activities that alter the physical characteristics of public lands or waters under the jurisdiction of or managed by the commission without a permit required by these rules; by performing such work out of conformance with specific requirements enumerated in a permit authorized by these rules; or by failing to comply with an order of the commission under these rules. Each day of a violation shall be considered a separate offense.

**13.15(2) Types of violations.** A person who violates these rules shall be subject to either of the following:

a. Criminal enforcement. A peace officer of the state may issue a citation for each offense. A person who is found guilty of violating these rules shall be charged with a simple misdemeanor for each violation.

b. Civil enforcement. A civil penalty may be assessed in conformance with Iowa Code section 461A.5B and rule 571--13.17(461A). Written notice of the violation(s) shall be given to the person against whom disciplinary action is being considered. The notice shall state the informal and formal procedures available for determining the matter. If agreement as to appropriate disciplinary sanction, if any, can be reached between the person against whom disciplinary action is being considered and the director, a written stipulation and settlement between the department and the person shall be entered. Such a settlement shall take into account how the corrective actions described in subrule 13.15(3) shall be accomplished. In addition, the stipulation and settlement shall recite the basic facts and violations alleged, any facts brought forth by the person, and the reasons for the particular sanctions imposed. If an agreement as to appropriate disciplinary action, if any, cannot be reached, the director may issue an administrative order as described in rule 571--13.17(461A).

**13.15(3) Actions to be taken upon receipt of citation or notice of violation.** A person who has violated these rules shall cease the specified unauthorized activity upon receipt of a citation or as may be stipulated in the notice of violation. The notice of violation or a written notice accompanying the citation from the department shall require the person to take one or more of the following actions within a specified time:

a. Apply for a permit to authorize completion of construction or maintenance and use, as applicable;

b. Remove materials and restore the affected area to the condition that existed before commencement of the unauthorized activity;

c. Remediate the affected area in a manner and according to a plan approved by the department. The department may enforce such a remediation at the expense of the permittee, adjacent landowner or culpable party.

**571—13.16(455A,461A) Removal orders.** If the violation includes the unauthorized placement of materials or personal property on the lands or waters under the jurisdiction of the commission and the person, who may include a permittee or authorized agent but may not, fails to comply with the action required by the notice, the director may cause a proposed removal order to be issued to the person responsible for such placement. The proposed removal order shall specify the removal action required and include notice of the right to an administrative appeal including a contested case hearing under procedures in 571—Chapter 7. The proposed decision in a contested case may be appealed to the commission under 571—Chapter 7. If there is no appeal from a proposed decision that includes a removal requirement, the proposed decision shall be presented to the director for review and adoption. A removal order approved by director shall constitute final agency action under Iowa Code sections 461A.4 and 461A.5A and may be enforced through an original action in

equity filed in a district court of the state by the attorney general on behalf of the department and the commission.

**571--13.17(455A,461A) Civil penalties.** The department may assess a civil penalty of up to \$5,000 per offense for each violation of these rules, provided the department does not utilize a criminal citation for a violation. Each day the violation continues shall be a separate offense or violation. Penalties shall be assessed through issuance of an administrative order of the director which recites the facts and the legal requirements which have been violated, and a general rationale for the prescribed fines. The order may include cumulative penalties up to \$10,000 for multiple violations. The order also may be combined with any other order authorized by statute for mandatory or prohibitory injunctive conditions, and is subject to normal contested case and appellate review under procedures in 571—Chapter 7. The proposed decision in a contested case may be appealed to the commission under 571—Chapter 7. The commission may refer orders that include singular or cumulative penalties over \$10,000 to the Attorney General's office.

**571--13.18(455A,461A) Report of completion.** Once an approved activity is completed, the permittee shall notify the department contact identified in the permit of such completion through regular mail or email. The permittee shall accompany such notice with a ground-level photograph(s) of the completed project. The activity shall be subject to final approval before the department determines that the conditions of the permit have been met.

**571--13.19(455A,461A) Final inspection.** Once the permittee notifies the department pursuant to rule 571--13.16(461A), the department shall inspect the permitted area to ensure the permittee has complied with the terms of the permit. Such inspection shall occur within 60 days of the department's receipt of the notice provided pursuant to rule 571--13.16(461A). In the event the department does not provide final inspection within 60 days of the department's receipt of the notice provided pursuant to rule 571--13.16(461A), the permittee shall be deemed compliant and the permit shall expire. The intent of this inspection is to evaluate compliance with permit conditions and the impacts to the natural resources and the public's recreational use of the area.

**571--13.20(455A,461A) Permit extensions.** Prior to the expiration of a permit, a permittee or an authorized agent may submit an application to the department for an extension on a form provided by the department. In evaluating whether to grant the extension, the department will consider the work completed, the work to be performed, the extent to which the permit extension is needed and the extent to which the permittee has made efforts to meet the obligations of the original permit. The department reserves the right to modify the conditions of a permit as part of any extension. An extension granted by this rule is not a project modification.

**571--13.21(455A,461A) Permit modifications.** If projects are modified to the extent that the additional or modified work would not be allowed within the original permit, the permittee must apply for a new permit for the additional or modified work.

**571--13.22(455A,461A) Transferability.** Permits are transferable only upon the written approval of the department and only after the department is satisfied that the permitted activities will not change and the new permittee would be eligible to receive a permit under subrule 13.7(3).

**571--13.23 to 13.50(455A,461A) Reserved.**



## DIVISION II LEASES AND EASEMENTS

**571—13.51(455A,461A) Leases.** Where a permitted structure or related activity will have a continuing impact on availability or desirability of public lands or waters for public use or exceeds the scope of littoral or riparian rights, the permittee must enter into a lease covering the area affected by the construction. Fees for leases shall be determined by 571--Chapter 18 or other methods approved by the commission and executed pursuant to Iowa Code section 461A.25. Requests for leases shall be made on the form and shall include the information required by rule 571--13.9(461A) under Division I of this chapter. The department may grant a lease if, in its sole discretion, the lease will not impair the state's intended use of the area during the term of the lease, the lease will not negatively impact a federal interest, included related deed restrictions, related to the area during the term of the lease, and the lease will not result in an exclusive use.

**571—13.52(455A,461A) Easements.** The director may grant an easement to political subdivisions and utility companies pursuant to Iowa Code section 461A.25, provided the following terms are met:

**13.52(1)** Requests for easements shall be made on the form and shall include the information required by rule 571--13.9(461A) under Division I of this chapter. The department may grant an easement if, in its sole discretion, the easement will not impair the state's intended use of the area during the term of the easement or the easement will not negatively impact a federal interest, included related deed restrictions, related to the area during the term of the agreement.

**13.52(2)** The value of an easement shall be determined by the director based upon a real estate appraisal or other method approved by the commission, as evidenced in the meeting minutes thereof. In addition to fees for easements, the director may assess the applicant for the reasonable transaction costs associated with issuing of an easement including the cost of appraisals, other methods of establishing values and land surveys. In determining the fee for an easement the department may consider the value the proposed activity may contribute to the department's management of the affected property.

**13.52(3)** Recipients of any easements granted pursuant to this rule shall assume liability for structures installed pursuant to such easement and shall comply with the standards enumerated in rule 571--13.7(461A), as applicable, in the sole discretion of the department.

**571—13.53(455A,461A) Appeals.** The department and the commission are under no legal obligation to provide any person a legal interest in property under the jurisdiction of the commission. An applicant may appeal to the director a decision of the department regarding leases and easements and request that the director reconsider a condition of an easement or a lease or a denial of an easement or a lease. The determination of the director shall be a final agency action. These rules are intended to implement Iowa Code sections 455A.5, 461A.4, 461A.5A, 461A.5B, 461A.6, 461A.18, 461A.25 and 462A.3.

---

Date

---

Richard A. Leopold, Director

Moved – Commissioner Francisco

Seconded – Commissioner Drees

Discussion – Kelley Myers explained the current rule and the proposed amendment. Under new law in addition to criminal fines there would now be additional civil fines that could be assessed

at \$5,000 per day per violation. This would be an incentive to work with the DNR to and complete the permits prior to construction. Review of standards and conditions of permit will be needed. Education of the public on the permit process will assist to alleviate problem cases. One change has been made to the agenda topic – Ordinary High Water Line and is available on the departments website.

Motion – Carried with unanimous vote

## **19. General Discussion**

- Ken Herring – Sunday 7:00 pm on PBS documentary on Bald Eagles.
- Arnie Sohn has been tasked with coordinating the Land Donation Recognition event.
- Proposed – If possible change January 2009 meeting to coordinate with the Legislative breakfast meeting so commissioners are not traveling to Des Moines two weeks in a row.
- Minnesota passed initiative bill
- Johnson county – passed w/60.8% (60% needed to pass)

## **20. Items for Next Meeting**

- Dec/Jan/Feb 2009 will all be held in Des Moines and be Bureau presentation vs. tours
- Commissioner Garst – Request to allow public group to speak for 10 minutes at next months meeting in reference to their group's State Park observations.
- Commissioner Francisco – Should staff send letter to the new administration in regards to the possibility of starting a CRP Program. Ken advised that staff is currently working on this.
- Commissioner Garst would like staff to investigate required no tillage in farm leases vs. no fault tillage. Commissioner Rettig concurred that the topic needs to be further investigated.
- Ken – Dianne Ford-Shivvers is working with the Governor's office and Executive Council about getting funds secured from FEMA for flood related damages to state facilities.

## **Adjourn**

Moved – Commissioner Francisco

Seconded – Commissioner Kircher

Discussion – none

Motion – Carried with unanimous vote

Next Meetings:

December 11, 2008 – Polk County

January 8, 2009 – Polk County

February 12, 2009 – Polk County